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

1	NEPAL BURMAN S/O SH. GURCHAND BURMAN	B-169	236/2022	23.11.2022	01.05.2023	REJECTED
2	NIKUNJ BURMAN S/O GOUR BURMAN	B-168	237/2022	23.11.2022	01.05.2023	REJECTED
3	NITIN BURMAN S/O GOUR BURMAN	B-168	238/2022	23.11.2022	01.05.2023	REJECTED
4	GEETA BURMAN W/O FALIAN BURMAN	B-168	444/2023	29.11.2022	01.05.2023	REJECTED
5	NEELAM BURMAN W/O SAPAN	A-353	285/2023	25.11.2022	02.05.2023	REJECTED
6	PRANAV SHAH S/O PARITOSH SHAH	C-400	303/2023	25.11.2022	02.05.2023	REJECTED
7	GAUTAM SAHA S/O PARITOSH SAHA	C-400	304/2023	25.11.2022	02.05.2023	REJECTED
8	BABITA BARMAN W/O DILIP BARMAN	A-353	337/2023	28.11.2022	02.05.2023	REJECTED
9	AARTI DEVI D/O NIRMAL RAM W/O SAMESH	A-10	124/2022	22.11.2022	03.05.2023	REJECTED
10	RAJU S/O DILIP MEHTO	A-03	146/2022	22.11.2022	03.05.2023	REJECTED
11	RAMESH KUMAR S/O RAMPATI RAM	A-10	289/2023	25.11.2022	03.05.2023	REJECTED
12	ASHOK KUMAR S/O RAM CHANDRA	A-86	320/2023	28.11.2022	03.05.2023	REJECTED
13	SHAMBHU DUTTA S/O PARMA NAND DUTTA	A-342	335/2023	28.11.2022	03.05.2023	REJECTED
14	SUPRIYA BISWAS W/O ASSHUTOSH	B-164	194/2022	23.11.2022	04.05.2023	REJECTED
15	SOMA DAS W/O NIRMAL DAS D/O SUKH RANJAN	B-164	409/2023	29.11.2022	04.05.2023	REJECTED
16	SHEELA DAS W/O PARIMAL DAS	B-170	445/2023	29.11.2022	04.05.2023	REJECTED
17	ASHISH DAS S/O MONTU DAS	A-170	690/2023	30.01.2023	04.05.2023	REJECTED
18	PRAKSH GARKOTI S/O NARAYAN DAS GARKOTI	B-66	98/2022	21.11.2022	08.05.2023	**ALLOWED**
19	SHYAM SINGH S/O RAM SINGH	D-171	221/2023	23.11.2022	08.05.2023	REJECTED
20	SUNITA W/O SONU D/O DHANI RAM	D-171	222/2023	23.11.2022	08.05.2023	REJECTED
21	KHEMKANT S/O SH. RAJENDER KUMAR	B-198	328/2023	28.11.2022	08.05.2023	REJECTED
22	MUNNI DEVI W/O RAM AVTAR D/O GUNDAR JHA	A-34	125/2022	22.11.2022	15.05.2023	REJECTED

23	UMESH KUMAR ROY S/O SURESH	C-265	361/2023	29.11.2022	15.05.2023	REJECTED
24	RAJESH ROY S/O SURESH ROY	C-265	360/2023	29.11.2022	15.05.2023	REJECTED
25	CHANDAN S/O MANGAL RAM	A-171	85/2022	21.11.2022	15.05.2023	REJECTED
26	SANJAY S/O RAMESH	C-452	203/2023	23.11.2022	16.05.2023	REJECTED
27	SHIV SAGAR S/O CHETTE LAL	C-352	270/2022	24.11.2022	16.05.2023	REJECTED
28	RAJESH KANAUJIA S/O HARI RAM	B-661	355/2023	29.11.2022	16.05.2023	REJECTED
29	SHER SINGH S/O RATAN LAL	C-302	362/2023	23.11.2022	16.05.2023	REJECTED
30	SHEELA W/O VIRPAL	D-222	160/2022	23.11.2022	17.05.2023	REJECTED
31	SUMAN W/O ROHTASH	D-198	363/2023	29.11.2022	17.05.2023	REJECTED
32	RAJU YADAV S/O AMAR NATH YADAV	D-27	572/2023	06.12.2022	17.05.2023	REJECTED
33	SHIV KUMAR S/O AMARNATH	D-27	573/2023	06.12.2022	17.05.2023	REJECTED
34	RINKU W/O PAPPU D/O OM PRAKASH	D-107	218/2023	23.11.2022	18.05.2023	REJECTED
35	PREM WATI W/O RAMESH CHAND	D-202/A	507/2023	02.12.2022	18.05.2023	**ALLOWED**
36	PARVEEN KUMAR S/O DINESH CHAND	D-202/A	508/2023	02.12.2022	18.05.2023	REJECTED
37	BANO BEGUM W/O VASEER AHMAD	D-76	619/2023	14.12.2023	18.05.2023	REJECTED
38	AZAD ALI S/O MD. SALIM	D-56	423/2023	29.11.2022	19.05.2023	REJECTED
39	MADAN KUMAR S/O SHARAN PAL SINGH	D-94	472/2023	30.11.2022	19.05.2023	REJECTED
40	NAGEENA W/O YAKUB AHMAD	D-75	577/2023	06.12.2022	19.05.2023	REJECTED
41	SUSHIL KUMAR S/O MUNSHI LAL	D-155	731/2023	09.02.2023	19.05.2023	REJECTED
42	SANJEEV KUMAR S/O KUNWAR PAL	D-202	364/2023	29.11.2022	22.05.2023	REJECTED
43	AMIT KUMAR S/O KUNWAR PAL	D-202	365/2023	29.11.2022	22.05.2023	REJECTED
44	PINTU PRAJAPATI S/O RAM KUMAR	D-114	366/2023	29.11.2022	22.05.2023	REJECTED
45	MD. AZAD S/O MD SHARIF THROUGH HIS WIFE AFSANA	D-134	730/2023	10.02.2023	22.05.2023	REJECTED
46	IQBAL AHMAD SIDDIQUI S/O MD ASLAM SIDDIQUI	D-05/A	370/2023	29.11.2022	23.05.2023	REJECTED

47	GAUTAM KUMAR S/O RAMJI	D-116	474/2023	30.11.2022	23.05.2023	REJECTED
48	SAKSHI W/O SATISH D/O RAMJI	D-116	475/2023	30.11.2022	23.05.2023	REJECTED
49	VINITA D/O GANGA CHARAN	D-149	685/2023	25.01.2023	23.05.2023	REJECTED
50	JAREENA W/O MD. IKLAQ	D-22	75/2022	21.11.2022	24.05.2023	REJECTED
51	OM SHIV SHRIVASTAV S/O ONKAR SHRIVASTAV	D-108	293/2023	25.11.2022	24.05.2023	REJECTED
52	SANJEEV KUMAR VERMA S/O SHIV PRASAD	D-147	471/2023	30.11.2022	24.05.2023	REJECTED
53	SARVESH S/O GANGA DAYAL	D-71	500/2023	01.12.2022	24.05.2023	REJECTED
54	JAHANARA W/O MASHAROOR HUSSAIN	D-24	200/2023	23.11.2022	25.05.2023	REJECTED
55	RAZO W/O LATE VIJAY PAL	D-120	367/2023	29.11.2022	25.05.2023	**ALLOWED**
56	SUNIL S/O VIJAY PAL	D-120	676/2023	16.01.2023	25.05.2023	REJECTED
57	SOMA W/O VIRENDER D/O ASHISH	D-197	710/2023	07.02.2023	25.05.2023	REJECTED
58	MEENA W/O ARUN D/O HARPAL	D-191	46/2022	21.11.2022	26.05.2023	REJECTED
59	VIJAY S/O RAM CHARAN	D-96	213/2023	23.11.2022	26.05.2023	**ALLOWED**
60	RAKESH THAKUR S/O RAJESHWAR THAKUR	D-63	499/2023	01.12.2022	26.05.2023	**ALLOWED**
61	SATENDRA S/O BHAGWAN PRASAD	D-52	601/2023	08.12.2022	26.05.2023	REJECTED
62	HASEENA BEGUM W/O MOHD. ABRAR	D-212	177/2022	23.11.2022	29.05.2023	REJECTED
63	PRADEEP S/O RAM NIWAS	D-135	210/2023	23.11.2022	29.05.2023	**ALLOWED**
64	SEEMA SAXENA W/O SUNIL KUMAR SAXENA	D-111	217/2023	23.11.2022	29.05.2023	REJECTED
65	DEEPAK SAXENA S/O SUNIL KUMAR SAXENA	D-111	219/2023	23.11.2022	29.05.2023	**ALLOWED**

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

Appeal No: 236 of 2022

Date of Institution: 23.11.2022

Date of Order: 01.05.2023

Present: Appellant/Claimant Nepal Burman S/o Gaur Chand Burman

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-169, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-169 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/7/83.1/1641 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 236 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-169 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Nepal Burman, has been recorded before us on 10.04.2023 wherein he has stated that his parents, Gaur Chand & Suchitra, are

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having five sons, Falian, Nikhil, Nikunj, Nepal & Nitin and one daughter Asha. Gaur Chand had died about twenty years ago. All the children are married. Asha is living in her matrimonial home near ITO, Delhi. Nikhil is married with Sandhya and having two children. Falian is married with Geeta Burman and having two children. Nikunj is married with Sunita and having three children. Nitin is married with Rani and having three children. Nepal (Appellant/Claimant) is married with Shipra and having one son.

8. The Appellant/Claimant has stated that his family is having two adjoining Jhuggis bearing No. B-168 & B-169. The Jhuggi No. B-169 is a triple storey structure and Jhuggi No. B-168 is a four-storey structure.

Jhuggi No. B-168

9. The Appellant/Claimant has stated that his mother, Suchitra, is living on the ground floor of Jhuggi No. B-168 and regarding that DDA has made allotment in favour of his mother Suchitra. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Nikunj along with his wife Sunita and children is living on the second floor of Jhuggi No. B-168 and regarding that Nikunj has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, has filed the Appeal No. 237 of 2022 for redressal. The Appellant/Claimant has tendered documents Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. The Appellant/Claimant has stated that Falian along with his wife Geeta Burman & children is living on the third floor of Jhuggi No. B-168 and Geeta Burman has claimed allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 444 of 2023 for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Nitin along with his wife Rani and children is living on the first floor of Jhuggi No. B-168 and Nitin has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 238 of 2022 for redressal. These facts are not disputed by DDA.

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Jhuggi No. B-169

13. The Appellant/Claimant has stated that Nikhil is married with Sandhya and they along with their two children are living on the ground floor of Jhuggi No. B-169 and regarding that DDA has made allotment in favour of Sandhya. These facts are not disputed by DDA.

14. The Appellant/Claimant has further stated that he along with his wife Shipra & son is living on the first floor of Jhuggi No. B-169. The Appellant/Claimant has sought allotment against the first floor of Jhuggi No. B-169 from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 236 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is pointed out that all the four Appeal No. 236 of 2022, 237 of 2022, 238 of 2022 & 444 of 2023 shall be decided separately on their individual merit.

SURVEY/ VIDEOCLIPS OF JHUGGI NO. B-168

16. DDA has furnished the survey record along with seventeen video clips pertaining to Jhuggi No. B-168. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.04.2023. In five videos, Suchitra is seen on the ground floor of Jhuggi No. B-168 and her room & kitchen are also seen. In the other six videos, Rani W/o Nitin is seen on the first floor and her room & kitchen are also seen. The next three videos pertain to the second floor of Jhuggi No. B-168 and Nikunj is seen and further his room & kitchen are also seen. In the remaining three videos, the Geeta Burman is seen on the third floor and her room & kitchen are also seen.

SURVEY/ VIDEOCLIPS OF JHUGGI NO. D-169

17. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-169. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.04.2023. In four videos clips, Sandhya W/o Nikhil is seen on the ground floor and her room & kitchen are also seen. Further, in the other two video clips, Nepal (Appellant/Claimant) is seen on the first floor of Jhuggi No. B-169 and his room & kitchen are also seen.

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18. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has also duly proved that the four storey Jhuggi No. B-168 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and regarding the ground floor of the said Jhuggi one allotment has been made in favour of Suchitra W/o Gaur Chand. Whereas the claim of Nitin against the first floor and the claim of Nikunj against the second floor and the claim of Geeta Burman against the third floor have been rejected by the EDC and their Appeal No. 238 of 2022, 237 of 2022 & 444 of 2023 are pending before the Appellate Authority.

19. Further, the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi No. B-169 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the family members of the Appellant/Claimant were using the said Jhuggi for residential purposes and regarding the ground floor one allotment has been made by DDA in favour of Sandhya W/o Nikhil. Whereas Nepal (Appellant/Claimant) has been using the first floor of the said Jhuggi for residential purposes but his claim regarding the first floor was rejected by the EDC and his Appeal No. 236 of 2022 is pending before the Appellate Authority.

20. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. B-169 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

21. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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

23. 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

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criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration card as he is having a joint Ration Card issued in the name of his brother Nikhil Burman. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/83.1/1641 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

26. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

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appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

29. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

30. 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.

31. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1147396 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C), Voter Lists of the year 2012 (Annexure-J) & Voter List of the year 2019 (Annexure-K).

32. It is pointed out that the Voter ID Card No. ARE 1147396 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant also appears at Sl. No. 525 in the Voter List of the year 2012 (Annexure-J) and at Sl. No. 439 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the Voter Lists of the year 2012 & of the year of survey.

33. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. B-169 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-I), which has been issued on 05.01.2010 in the name of his brother Nikhil and the name of the present Appellant/claimant is also mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of first floor of Jhuggi No. B-169 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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34. The Appellant/Claimant has tendered his Bank Passbook of Punjab National Bank (Annexure-D) as well as the Voter ID Card (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Shipra and the Electricity Bill (Annexure-H).

35. It is pointed out that the Passbook of PNB (Annexure-D) shows that the account was opened on 20.01.2016, much after the date of 01.01.2015. Further, the Voter ID Card No. ARE 1139668 (Annexure-E) has been issued on 27.10.2008. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken in the name of his wife Shipra on 06.01.2020, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-169 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. B-169 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/83.1/1641 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 237 of 2022

Date of Institution: 23.11.2022

Date of Order: 01.05.2023

Present: Appellant/Claimant Nikunj Burman S/o Gaur Chand Burman

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-168, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-168 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/7/85.1/1642 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 237 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-168 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Nikunj Burman, has been recorded before us on 10.04.2023 wherein he has stated that his parents, Gaur Chand & Suchitra, are

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having five sons, Falian, Nikhil, Nikunj, Nepal & Nitin and one daughter Asha. Gaur Chand had died about twenty years ago. All the children are married. Asha is living in her matrimonial home near ITO, Delhi. Nikhil is married with Sandhya and having two children. Nepal is married with Shipra and having one son. Nitin is married with Rani and having three children. Falian is married with Geeta Burman and having two children. Nikunj (Appellant/Claimant) is married with Sunita and having three children.

8. The Appellant/Claimant has stated that his family is having two adjoining Jhuggis bearing No. B-168 & B-169. The Jhuggi No. B-169 is a triple storey structure and Jhuggi No. B-168 is a four-storey structure.

Jhuggi No. B-169

9. The Appellant/Claimant has stated that Nikhil is married with Sandhya and they along with their two children are living on the ground floor of Jhuggi No. B-169 and regarding that DDA has made allotment in favour of Sandhya. These facts are not disputed by DDA.

10. The Appellant/Claimant has further stated that Nepal along with his family is living on the first floor of Jhuggi No. B-169 and regarding that Nepal has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 236 of 2022 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. B-168

11. The Appellant/Claimant has stated that his mother, Suchitra, is living on the ground floor of Jhuggi No. B-168 and regarding that DDA has made allotment in favour of his mother Suchitra. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Nitin along with his wife Rani and children is living on the first floor of Jhuggi No. B-168 and regarding that Nitin has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, has filed the Appeal No. 238 of 2022 for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that Falian along with his wife Geeta Burman & children is living on the third floor of Jhuggi No. B-168 and Geeta Burman has claimed

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allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 444 of 2023 for redressal. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that he along with his wife Sunita & children is living on the second floor of Jhuggi No. B-168. The Appellant/Claimant has sought allotment from DDA against the second floor of Jhuggi No. B-168 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 237 of 2022 before the Appellate Authority. The Appellant/Claimant has tendered documents Annexure-A to Annexure-I in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is pointed out that all the four Appeal No. 236 of 2022, 237 of 2022, 238 of 2022 & 444 of 2023 shall be decided separately on their individual merit.

SURVEY/ VIDEOCLIPS OF JHUGGI NO. B-168

16. DDA has furnished the survey record along with seventeen video clips pertaining to Jhuggi No. B-168. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.04.2023. In five videos, Suchitra is seen on the ground floor of Jhuggi No. B-168 and her room & kitchen are also seen. In the other six videos, Rani W/o Nitin is seen on the first floor and her room & kitchen are also seen. The next three videos pertain to the second floor of Jhuggi No. B-168 and Nikunj (Appellant/Claimant) is seen and further his room & kitchen are also seen. In the remaining three videos, the Geeta Burman is seen on the third floor and her room & kitchen are also seen.

SURVEY/ VIDEOCLIPS OF JHUGGI NO. D-169

17. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-169. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.04.2023. In four videos clips, Sandhya W/o Nikhil is seen on the ground floor and her room & kitchen are also seen. Further, in the other two video clips, Nepal is seen on the first floor of Jhuggi No. B-169 and his room & kitchen are also seen.

18. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi No. B-169 was in existence in the Bhoomiheen

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Camp on the cutoff date of 01.01.2015 and the family members of the Appellant/Claimant were using the said Jhuggi for residential purposes and regarding that one allotment has been made in favour of Sandhya W/o Nikhil whereas one claim of Nepal was rejected by the EDC and his Appeal No. 236 of 2022 is pending before the Appellate Authority.

Furthermore, the statement of the Appellant/Claimant as well as the survey records/video clips has also duly proved that four storey Jhuggi No. B-169 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and regarding the ground floor of the said Jhuggi one allotment has been made in favour of Suchitra W/o Gaur Chand whereas the claim of Nitin against the first floor and the claim of Nikunj (Appellant/Claimant) against the second floor have been rejected by the EDC and their Appeal No. 238 of 2022 and 237 of 2022 are pending before the Appellate Authority. Furthermore, Geeta Burman has been using the third floor of said Jhuggi for residential purposes but her claim has been rejected by the EDC and her present Appeal No. 444 of 2023 is pending before the Appellate Authority

19. Accordingly, we have no hesitation in holding that the four storey Jhuggi No. B-168 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant has been using the second floor of the said Jhuggi for residential purposes.

20. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

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

22. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a

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separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/85.1/1642 dated 07.11.2022.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 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

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license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

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

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

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

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

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

26. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

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

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is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

28. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

29. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

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

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the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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

GIST OF THE POLICY

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

32. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

33. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the

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policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because 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.

34. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

35. 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.

36. The Appellant/Claimant has his tendered Voter ID Card No. CXY 1071950 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C), Voter Lists of the year 2013 (Annexure-H) and the Voter List of the year 2019 (Annexure-I).

37. It is pointed out that the Voter ID Card No. CXY 1071950 (Annexure-A) has been issued on 06.03.2002, much prior to the cut off date of 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 518 in the Voter List of the year 2013 (Annexure-H) & also at Sl. No. 432 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the Voter List of the year 2013, & of the year of survey.

38. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the second floor of the said Jhuggi No. B-168 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-G), which has been issued on 03.05.2014 in the name of his mother Suchitra and the names of the family members, including the present Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of second floor of Jhuggi No. B-168 regarding which he is claiming allotment from DDA.

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The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. B-168 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.

39. The Appellant/Claimant has also tendered the Voter ID Card No. CXY 1069426 (Annexure-D) of his wife Sunita, Passbook of Punjab National Bank (Annexure-E) and Electricity Bill (Annexure-F).

40. It is pointed out that the Voter ID Card No. CXY 1069426 (Annexure-D) has been issued on 05.03.2002, much prior to the cut off date of 01.01.2015. The passbook of PNB (Annexure-E) shows that the account has been opened on 05.06.2008. The Electricity Bill (Annexure-F) also shows that the electricity connection has been taken by the Appellant/Claimant on 25.05.2017, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-168 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/85.1/1642 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 1.5.2023	**(Satish Ahlawat)** 1/5/2023	**(Rachna Tiwary)** 1/5/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 238 of 2022

Date of Institution: 23.11.2022

Date of Order: 01.05.2023

Present: Appellant/Claimant Nitin Burman S/o Gaur Chand Burman

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-168, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-168 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/7/86.2/1643 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 238 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-168 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Nitin Burman, has been recorded before us on 10.04.2023 wherein he has stated that his parents, Gaur Chand & Suchitra, are

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having five sons, Falian, Nikhil, Nikunj, Nepal & Nitin and one daughter Asha. Gaur Chand had died about twenty years ago. All the children are married. Asha is living in her matrimonial home near ITO, Delhi. Nikhil is married with Sandhya and having two children. Nepal is married with Shipra and having one son. Falian is married with Geeta Burman and having two children. Nikunj is married with Sunita and having three children. Nitin (Appellant/Claimant) is married with Rani and having three children.

8. The Appellant/Claimant has stated that his family is having two adjoining Jhuggis bearing No. B-168 & B-169. The Jhuggi No. B-169 is a triple storey structure and Jhuggi No. B-168 is a four-storey structure.

Jhuggi No. B-169

9. The Appellant/Claimant has stated that Nikhil is married with Sandhya and they along with their two children are living on the ground floor of Jhuggi No. B-169 and regarding that DDA has made allotment in favour of Sandhya. These facts are not disputed by DDA.

10. The Appellant/Claimant has further stated that Nepal along with his family is living on the first floor of Jhuggi No. B-169 and regarding that Nepal has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 236 of 2022 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. B-168

11. The Appellant/Claimant has stated that his mother, Suchitra, is living on the ground floor of Jhuggi No. B-168 and regarding that DDA has made allotment in favour of his mother Suchitra. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Nikunj along with his wife Sunita and children is living on the second floor of Jhuggi No. B-168 and regarding that Nikunj has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, has filed the Appeal No. 237 of 2022 for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that Falian along with his wife Geeta Burman & children is living on the third floor of Jhuggi No. B-168 and Geeta Burman has claimed allotment from DDA but her claim has been rejected by Eligibility Determination

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Committee and aggrieved by the same she has filed the Appeal No. 444 of 2023 for redressal. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that he along with his wife Rani and children is living on the first floor of Jhuggi No. B-168. The Appellant/Claimant has sought allotment from DDA against the first floor of Jhuggi No. B-168 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 238 of 2022 for redressal. The Appellant/Claimant has tendered documents Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is pointed out that all the four Appeal No. 236 of 2022, 237 of 2022, 238 of 2022 & 444 of 2023 shall be decided separately on their individual merit.

SURVEY/ VIDEOCLIPS OF JHUGGI NO. B-168

16. DDA has furnished the survey record along with seventeen video clips pertaining to Jhuggi No. B-168. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.04.2023. In five videos, Suchitra is seen on the ground floor of Jhuggi No. B-168 and her room & kitchen are also seen. In the other six videos, Rani W/o Nitin (Appellant/Claimant) is seen on the first floor and her room & kitchen are also seen. The next three videos pertain to the second floor of Jhuggi No. B-168 and Nikunj is seen and further his room & kitchen are also seen. In the remaining three videos, the Geeta Burman is seen on the third floor and her room & kitchen are also seen.

SURVEY/ VIDEOCLIPS OF JHUGGI NO. D-169

17. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-169. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.04.2023. In four videos clips, Sandhya W/o Nikhil is seen on the ground floor and her room & kitchen are also seen. Further, in the other two video clips, Nepal is seen on the first floor of Jhuggi No. B-169 and his room & kitchen are also seen.

18. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi No. B-169 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the family members of the

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Appellant/Claimant were using the said Jhuggi for residential purposes and regarding that one allotment has been made in favour of Sandhya W/o Nikhil whereas one claim of Nepal was rejected by the EDC and his Appeal No. 236 of 2022 is pending before the Appellate Authority.

Furthermore, the statement of the Appellant/Claimant as well as the survey records/video clips has also duly proved that four storey Jhuggi No. B-169 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and regarding the ground floor of the said Jhuggi one allotment has been made in favour of Suchitra W/o Gaur Chand whereas the claim of Nitin (Appellant/Claimant) against the first floor and the claim of Nikunj against the second floor have been rejected by the EDC and their Appeal No. 238 of 2022 and 237 of 2022 are pending before the Appellate Authority. Furthermore, Geeta Burman has been using the third floor of said Jhuggi for residential purposes but her claim has been rejected by the EDC and her present Appeal No. 444 of 2023 is pending before the Appellate Authority

19. Accordingly, we have no hesitation in holding that the four storey Jhuggi No. B-168 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

20. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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

22. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the

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dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration card as he is having a joint Ration Card issued in the name of his mother Suchitra. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/86.2/1643 dated 07.11.2022.

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

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

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case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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28. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

30. The Appellant/Claimant has tendered Voter ID Card No. CXY 1072230 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C), Voter Lists of the year 2012 (Annexure-I) and Voter List of 2019 (Annexure-J).

31. It is pointed out that the Voter ID Card No. CXY 1072230 (Annexure-A) has been issued on 06.03.2002, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 521 in the Voter List of the year 2012 (Annexure-I) and at Sl. No. 435 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the Voter Lists of the year 2012 & of the year of survey.

32. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. B-168 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-H), which has been issued on 20.02.2009 in the name of his mother, Suchitra and the names of the family members, including the name of the Appellant/Claimant, have been mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of first floor of Jhuggi No. B-168 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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33. The Appellant/Claimant has also tendered the Voter ID Card No. ARE 1147354 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Rani Burman as well as the Electricity Bill (Annexure-G).

34. It is pointed out that the Voter ID Card No. ARE 1147354 (Annexure-D) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken by his mother, Suchitra, on the address of the ground floor of the Jhuggi No. B-168 on 18.06.2008 and accordingly, the Appellant/Claimant was not having an electricity connection on the address of the first floor of his Jhuggi No. B-168 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/86.2/1643 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 444 of 2023

Date of Institution: 29.11.2022

Date of Order: 01.05.2023

Present: Appellant/Claimant Geeta Burman W/o Falian Burman

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-168, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-168 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/7/87.3/1644 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 444 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-168 was found to exist on the upper floor but she had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not Verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the third floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Geeta Burman, has been recorded before us on 10.04.2023 wherein she has stated that her in-laws, Gaur Chand & Suchitra, are having five sons, Falian, Nikhil, Nikunj, Nepal & Nitin and one daughter Asha. Gaur Chand had died about twenty years ago. All the children are married. Asha is living in her matrimonial home near ITO, Delhi. Nikhil is married with Sandhya and having two children. Nikunj is married with Sunita and having three children. Nepal is married with Shipra and having one son. Nitin is married with Rani and having three children. Falian is married with Geeta Burman (Appellant/Claimant) and having two children.

8. The Appellant/Claimant has stated that her family is having two adjoining Jhuggis bearing No. B-168 & B-169. The Jhuggi No. B-169 is a triple storey structure and Jhuggi No. B-168 is a four-storey structure.

Jhuggi No. B-169

9. The Appellant/Claimant has stated that Nikhil is married with Sandhya and they along with their two children are living on the ground floor of Jhuggi No. B-169 and regarding that DDA has made allotment in favour of Sandhya. These facts are not disputed by DDA.

10. The Appellant/Claimant has further stated that Nepal along with his family is living on the first floor of Jhuggi No. B-169 and regarding that he has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 236 of 2022 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. B-168

11. The Appellant/Claimant has stated that her mother-in-law, Suchitra, is living on the ground floor of Jhuggi No. B-168 and regarding that DDA has made allotment in favour of his mother-in-law Suchitra. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Nitin along with his wife Rani and children is living on the first floor of Jhuggi No. B-168 and regarding that Nitin has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, has filed the Appeal No. 238 of 2022 for redressal. These facts are not disputed by DDA.

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13. The Appellant/Claimant has stated that Nikunj along with his family is living on the second floor of Jhuggi No. B-168 and he has also claimed allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, has filed the Appeal No. 237 of 2022 for redressal. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that she (Geeta Burman-Appellant/Claimant) along with her husband Falian and two children is living on the third floor of Jhuggi No. B-168. The Appellant/Claimant has sought allotment from DDA against the third floor of Jhuggi No. B-168 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 444 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered documents Annexure-A to Annexure-I in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. It is pointed out that all the four Appeal No. 236 of 2022, 237 of 2022, 238 of 2022 & 444 of 2023 shall be decided separately on their individual merit.

SURVEY/ VIDEOCLIPS OF JHUGGI NO. B-168

16. DDA has furnished the survey record along with seventeen video clips pertaining to Jhuggi No. B-168. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.04.2023. In five videos, Suchitra is seen on the ground floor of Jhuggi No. B-168 and her room & kitchen are also seen. In the other six videos, Rani W/o Nitin is seen on the first floor and her room & kitchen are also seen. The next three videos pertain to the second floor of Jhuggi No. B-168 and Nikunj is seen and further his room & kitchen are also seen. In the remaining three videos, the Appellant/Claimant is seen on the third floor and her room & kitchen are also seen.

SURVEY/ VIDEOCLIPS OF JHUGGI NO. D-169

17. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-169. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.04.2023. In four videos clips, Sandhya W/o Nikhil is seen on the ground floor and her room & kitchen are also seen. Further, in the other two video clips, Nepal is seen on the first floor of Jhuggi No. B-169 and his room & kitchen are also seen.

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18. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi No. B-169 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the family members of the Appellant/Claimant were using the said Jhuggi for residential purposes and regarding that one allotment has been made in favour of Sandhya W/o Nikhil whereas one claim of Nepal was rejected by the EDC and his Appeal No. 236 of 2022 is pending before the Appellate Authority.

Furthermore, the statement of the Appellant/Claimant as well as the survey records/video clips has also duly proved that four storey Jhuggi No. B-169 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and regarding the ground floor of the said Jhuggi one allotment has been made in favour of Suchitra W/o Gaur Chand whereas the claim of Nitin against the first floor and the claim of Nikunj against the second floor have been rejected by the EDC and their Appeal No. 238 of 2022 and 237 of 2022 are pending before the Appellate Authority. Furthermore, the Appellant/Claimant Geeta Burman has been using the third floor of said Jhuggi for residential purposes but her claim has been rejected by the EDC and her present Appeal No. 444 of 2023 is pending before the Appellate Authority

19. Accordingly, we have no hesitation in holding that the four storey Jhuggi No. B-168 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant has been using the third floor of the said Jhuggi for residential purposes.

20. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the third floor as per the policy guidelines issued by DDA.

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

22. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having

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separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the third 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 third floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/87.3/1644 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

26. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

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27. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

> *"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-*
>
> *(1) words importing the masculine gender shall also be taken to include females; and*
>
> *(2) words in the singular shall include the plural, and vice versa.*

28. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

29. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

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In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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

GIST OF THE POLICY

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

32. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the third floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

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33. It is pointed out that as per our discussion in detail above, we have held that the third floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the third floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

34. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against third floor as per the policy guidelines issued by DDA.

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

36. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2528172 (Annexure-A) and Aadhar Card (Annexure-B) & PAN Card (Annexure-C).

37. It is pointed out that the Voter ID Card No. ARE 2528172 (Annexure-A) has been issued on 21.10.2020, much after cut off date of 01.01.2015. Accordingly, the question of the name of the Appellant/Claimant appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the third floor of the said Jhuggi No. B-168 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her Old Ration Card (Annexure-H), which has been issued on 08.07.2014 in favour of her mother-in-law, Suchitra and the name of her husband Falian is mentioned but the name of the

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present Appellant/Claimant has been conspicuously missing. The Appellant/Claimant has also tendered new Ration Card issued on date 03.05.2014 (Annexure-I) in favour of her mother-in-law, Suchitra and the name of her husband Falian is mentioned but the name of the present Appellant/Claimant is again not mentioned in this Ration Card also. 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 third floor of the Jhuggi No. B-168 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.

39. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1147362 (Annexure-D) & Aadhar Card (Annexure-E) as well as the passbook of Bank of Baroda (Annexure-F) of her husband and Electricity Bill (Annexure-G).

40. It is pointed out that the Voter ID Card No. ARE 1147362 (Annexure-D) has been issued on 14.09.2020, much after the cut off date of 01.01.2015. This shows that neither the Appellant/Claimant nor her husband was having a valid Voter ID Card on cut off date of 01.01.2015. Furthermore, the Passbook (Annexure-F) shows that the account has been opened on 08.10.2015, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken by her mother-in-law, Suchitra on 18.06.2008 thereby showing that the Appellant/Claimant was not having an electricity connection on the address of third floor of her Jhuggi No. B-168 regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card and a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card and a separate Ration Card on the cut off date of 01.01.2015 and she has claimed allotment against the third floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to

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Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the third floor bearing No. B-168 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a Voter ID Card and a separate Ration Card, on the cutoff date of 01.01.2015 Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/87.3/1644 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 285 of 2023

Date of Institution: 25.11.2022

Date of Order: 02.05.2023

Present: Appellant/Claimant Neelam Burman W/o Sapan D/o Subhash Burman

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

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-353, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-353 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/14.2/1265 dated 07.11.2022

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the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 285 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-353 was found to exist on the upper floor but she had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Neelam Burman, has been recorded before us on 19.04.2023 wherein she has stated that her in-laws, Subhash & Basanti, are having three sons, Dilip, Sapan & Pawan and one daughter Gita. All except Pawan are married. Gita is married with Raja Dhar and she is living in her matrimonial home in

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Jhuggi No. B-267, Bhoomiheen Camp. Dilip is married with Babita and having two children Vinit & Aniket. Sapan is married with Neelam (Appellant/Claimant) and having one daughter Deepa.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B-353 and it comprises of one room on each floor and further, an iron ladder is placed inside the room on the ground floor for going to the first floor and thereafter, another wooden ladder has been placed inside the room on the first floor for going to the second floor. The first and second floors are not having independent access from the gali. The first and the second floor are not separate & independent dwelling units but the same are part & parcel of one dwelling bearing Jhuggi No. A-353. The statement of the Appellant/Claimant accordingly shows that the first and the second floors are not having any independent access from the gali but in order to reach the first floor, one has to use the iron ladder placed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use the wooden ladder placed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. A-353.

9. The Appellant/Claimant has stated that her in-laws, Subhash & Basanti, along with their unmarried son Pawan are living on the ground floor of Jhuggi No. A-353 and regarding that DDA has made allotment in favour of her mother-in-law Basanti. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Dilip along with his wife Babita and children is living on the first floor of the said Jhuggi No. A-353 and Babita has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 337 of 2023 before the Appellant Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Sapan and daughter Deepa is living on the second floor of the said Jhuggi No. A-353. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. A-353 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 285 of 2023 before the Appellate Authority. The Appellant/Claimant has submitted documents- Annexure-

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

12. It is pointed out that both the appeals bearing Appeal No. 285 of 2023 and Appeal No. 337 of 2022 shall be decided separately on their respective individual merits.

13. DDA has furnished the survey records along with three video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 19.04.2023 wherein she has stated that one video pertain to the ground floor in which her father-in-law Subhash is seen and his room & kitchen are also seen and further an iron ladder placed inside the room on the ground floor for going to the first floor is also seen. In the second video clip, Babita is seen and her room & kitchen are also seen and further, a wooden ladder is also seen placed inside her room on the first floor for going to the second floor. In the third video clip, the room & kitchen of Neelam (Appellant/Claimant) is seen on the second floor.

14. It is pointed out that all the three appeals bearing Appeal No. 128 of 2022, Appeal No. 129 of 2022 and Appeal No. 130 of 2022 shall be decided separately on their respective individual merits.

15. The statement of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the Jhuggi No. A-353 is a triple storey structure and the first and second floors are not having independent access from the gali. In the video also an iron ladder is also seen going from inside the room on the ground floor to the first floor and further a wooden ladder placed inside the room on the first floor for going to the second floor is also seen. This accordingly shows that the first & second floors are not separate and independent dwelling units but the ground, first and second floors are part & parcel of one dwelling unit bearing Jhuggi No A-353. Thus instead of three there is in fact just one dwelling unit in Jhuggi No. A-353. The ground floor is one dwelling unit whereas the first & second floors are part & parcel of that dwelling unit on ground floor and accordingly all the three floors of Jhuggi No A-353 constitute single dwelling unit.

16. Thereby keeping in view that all the three floors of Jhuggi No. A-353 are one & the same dwelling unit and DDA has already made allotment in favour of Basanti (mother-in-law of the Appellant/Claimant) regarding the said Jhuggi No. A-353. Accordingly,

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two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of her mother-in-law, Basanti, therefore, neither the present Appellant/Claimant, Neelam Burman, nor Babita Burman (Appellant/Claimant in Appeal No. 337 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No. A-353.

17. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A-353 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors constitute one dwelling unit. Thus, we have no hesitation in holding that there is one dwelling unit in Jhuggi No. A-353. Thereby taking into consideration that all the three floors are not separate & independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. A-353 and DDA has already made allotment in favour of her mother-in-law, Basanti regarding the said dwelling unit bearing Jhuggi No. A-353, therefore, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the second floor because it is part & parcel of single dwelling unit bearing Jhuggi No. A-353 of her mother-in-law, Basanti. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

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

20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having

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separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/14.2/1265 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

24. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

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25. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

26. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

27. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

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In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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

GIST OF THE POLICY

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

30. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

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31. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

32. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

33. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1606044 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-M) and Voter List for the year 2019 (Annexure-N).

34. It is pointed out that the Voter ID Card No. ARE 1606044 has been issued on 19.01.2015, much after the cut off date of 01.01.2015 and accordingly, the question of her name appearing in the Voter List of 2012, 2013, 2014 & 2015 (date of survey) does not arise. The name of the Appellant/Claimant appears at Sl. No. 791 in the Voter List of the year 2015 (Annexure-M) and at Sl. No. 705 at the Voter List of the year 2019 (Annexure-N). Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 and her name also does not appear in the voter list of the 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the second floor of the said Jhuggi No. A-353 regarding which she is claiming allotment from DDA. She has tendered joint Ration Card (Annexure-J) issued in favour of her mother-in-law, Basanti but the name of the Appellant/ Claimant is not mentioned and even the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of

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.01.2015 issued on the address of second floor of the Jhuggi No. A-353 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.

36. The Appellant/Claimant has tendered two Voter ID Cards No. CXY 1539121 (Annexure-D), second Voter ID Card No. CXY 1539121 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her husband Sapan as well as the Passbook of PNB (Annexure-H), Passbook of ICICI (Annexure-I), Electricity Bill (Annexure-K) and the Passport of Sapan (Annexure-L).

37. It is pointed out that Sapan is having two Voter ID Cards (Annexure-D & E) and both are bearing the same number. i.e. CXY 1539121. This shows that her husband Sapan was having a Voter ID Card on the cut off date of 01.01.2015. The Passbook of PNB (Annexure-H) shows that the account was opened by Sapan on 18.06.2013 and the Passbook of ICICI Bank (Annexure-I) shows that the Appellant/Claimant had opened the account on 13.08.2021. The Electricity Bill shows that the electricity connection was taken by her father-in-law, Subhash, on 02.06.2008 thereby showing that the Appellant/Claimant was not having electricity connection on the address of second floor of Jhuggi No. A-353 regarding which she is claiming allotment from DDA. The Passport (Annexure-L) shows that it has been issued on 15.06.2016, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. A-

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353 has also been found to be one & the same dwelling unit and DDA has already made allotment in favour of her mother-in-law, Basanti, regarding the said Jhuggi No. A-353. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-353 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No A-353 has also been found to be one & the same dwelling unit and DDA has already made allotment in favour of her mother-in-law, Basanti, regarding the said Jhuggi No. A-353 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/14.2/1265 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 15/5/2023	**(Satish Ahlawat)** 15/5/2023	**(Rachna Tiwary)** 15/5/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 303 of 2023

Date of Institution: 25.11.2022

Date of Order: 02.05.2023

Present: Appellant/Claimant Pranav Shah S/o Paritosh Shah

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

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-400, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-187 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/43.1/1684 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 303 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-400 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Pranav Saha, has been recorded before us on 18.04.2023 wherein he has stated that his parents, Paritosh & Anjali, are having three

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sons; Gautam, Pranav & Biswajit. Paritosh had died about 15 years ago. All the children are married. Biswajit is married with Payal and having one son Mayank. Gautam is married with Monika and having two children Ronit & Nikita. Pranav (Appellant/Claimant) is married with Baby Rani and having two children Pratham & Yuvika.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. C-400 and it comprises of one room on each floor and having a pucca staircase going from the gali to the upper floor. The Appellant/Claimant has stated that his mother Anjali along with the family of her son Biswajit is living on the ground floor of the said Jhuggi No. C-400 and regarding that DDA has made allotment in favour of his mother. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brother Gautam along with his wife Monika and children is living on the first floor of the said Jhuggi No. C-400 and Pranav has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, has filed the Appeal No. 304 of 2023. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Baby Rani and both the children Pratham & Yuvika is living on the second floor of the said Jhuggi No. C-400. The Appellant/ Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. C-400 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 303 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, and prayed that DDA be directed to make allotment in his favour.

11. It is pertinent to point out that both the appeals bearing Appeal No. 303 of 2023 and Appeal No. 304 of 2023 shall we decided separately on their individual merit.

12. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-400. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.04.2023. In two videos, Anjali, mother of the

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Appellant/Claimant is seen in her Jhuggi on the ground floor and her room & kitchen are also seen. The other one video pertains to the first floor of the Jhuggi No. C-400 in which a pucca staircase going from the ground floor to the first floor is seen and further, Monika W/o Gautam is seen and further their room & kitchen are also seen. In the remaining one video, Baby Rani W/o Pranav (Appellant/Claimant) is seen on the second floor of the Jhuggi No. C-400 and her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No C-400 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No C-400 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

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

16. 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

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

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015 as he is having a joint Ration Card issued in the name of his mother Anjali. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/9/43.1/1684 dated 07.11.2022.

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

"Part-B

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

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

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

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

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

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

18. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This

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

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

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

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

20. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

21. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the

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dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

22. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

23. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment

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

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

GIST OF THE POLICY

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

26. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

27. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued

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

28. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

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

30. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1185149 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) & Voter List of the year 2019 (Annexure-L).

31. It is pointed out that the Voter ID Card No. ARE 1185149 (Annexure-A) has been issued on 30.08.2019, much after the cut off date of 01.01.2015. It is pertinent to point out that the name of the Appellant/Claimant is reflected at Sl. No. 463 in the Voter List of 2014 (Annexure-K) and at Sl. No. 475 in the Voter List of 2019 (Annexure-L) and further, in both the Voter Lists, his Voter ID Card number is mentioned to be ARE 1185149. Accordingly, the original Voter ID Card No. ARE 1185149 must have been issued much prior to the year 2015. However, the Appellant/Claimant has not placed on file the original Voter ID Card bearing No. ARE 1185149 but has tendered the Duplicate Voter ID Card No. ARE 1185149, which was issued on 30.08.2019. However, it is also pointed out that no Voter List of the year 2012, 2013, 2014 is placed on filed by the Appellant/Claimant to show that he had used the Voter ID Card No. ARE 1185149 to cast his vote in these years. Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card No. ARE 1185149 but there is no material to show as to when it was issued and further there is also no material to show that his name appears in the Voter List of 2012, 2013, 2014 & 2014.

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Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-400 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-J) issued in the name of his mother Anjali in which the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-400 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2541258 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) & Passbook of PNB (Annexure-G) of his wife Baby Rani as well as the Electricity Bill (Annexure-H) and his Passbook of PNB (Annexure-H).

34. It is pointed out that the Voter ID Card No. ARE 2541258 (Annexure-D) has been issued on 15.02.2021, much after the cut off date of 01.01.2015. The Passbook of PNB (Annexure-G) shows that the account was opened on 30.09.2014 and the Passbook of PNB (Annexure-I) shows that the account was opened on 23.07.2011. The Electricity Bill (Annexure-H) shows that the connection was taken by his mother Anjali on the ground floor of Jhuggi No. C-400 thereby showing that the Appellant/Claimant was not having electricity connection on the address of second floor of Jhuggi No. C-400 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-400 regarding which he is claiming allotment from DDA and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-400 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/9/43.1/1684 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 304 of 2023

Date of Institution: 25.11.2022

Date of Order: 02.05.2023

Present: Appellant/ Claimant Gautam Saha S/o Paritosh Shah

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

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-400, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-400 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/43.2/1685 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 304 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-400 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Gautam Saha, has been recorded before us on 18.04.2023 wherein he has stated that his parents, Paritosh & Anjali, are having three sons; Gautam, Pranav & Biswajit. Paritosh had died about 15 years ago. All the children are married. Biswajit is married with Payal and having one son Mayank. Pranav is married with Baby Rani and having two children Pratham & Yuvika. Gautam (Appellant/Claimant) is married with Monika and having two children Ronit & Nikita.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. C-400 and it comprises of one room on each floor and having a pucca staircase going from the gali to the upper floor. The Appellant/Claimant has stated that his mother Anjali along with the family of her son Biswajit is living on the ground floor of the said Jhuggi No. C-400 and regarding that DDA has made allotment in favour of his mother. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brother Pranav along with his wife Baby Rani and children is living on the second floor of the said Jhuggi No. C-400 and Pranav has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, has filed the Appeal No. 303 of 2023. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Monika and both the children Ronit & Nikita is living on the first floor of the said Jhuggi No. C-400. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-400 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 304 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-H, and prayed that DDA be directed to make allotment in his favour.

11. It is pertinent to point out that both the appeals bearing Appeal No. 303 of 2023 and Appeal No. 304 of 2023 shall we decided separately on their individual merit.

12. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-400. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 18.04.2023. In two videos, Anjali, mother of the Appellant/Claimant is seen in her Jhuggi on the ground floor and her room & kitchen are also seen. The other

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one video pertains to the first floor of the Jhuggi No. C-400 in which a pucca staircase going from the ground floor to the first floor is seen and further, Monika W/o Gautam (Appellant/Claimant) is seen and further their room & kitchen are also seen. In the remaining one video, Baby Rani W/o Pranav is seen on the second floor of the Jhuggi No. C-400 and her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No C-400 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No C-400 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

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

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Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/9/43.2/1685 dated 07.11.2022.

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

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

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

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

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

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

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

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

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19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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23. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1075662 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-G) & Voter List of the year 2019 (Annexure-H).

24. It is pointed out that the Voter ID Card No. CXY 1075662 (Annexure-A) has been issued on 29.10.2020, much after the cut off date of 01.01.2015. However, it is pertinent to point out that the name of the Appellant/Claimant appears at Sl. No. 480 in the Voter List of the year 2015 (Annexure-G) and at Sl. No. 474 in the Voter List of the year 2019 (Annexure-H) and his Voter ID Card number is mentioned to be CXY 1075662. Accordingly, the original Voter ID Card No. CXY 1075662 must have been issued in the year 2015 but there is no clarity whether it was issued prior to the cutoff date of 01.01.2015. However, the Appellant/Claimant has not placed on file the original Voter ID Card bearing No. CXY 1075662 but has tendered the Duplicate Voter ID Card No. CXY 1075662, which was issued on 29.10.2020. However, it is also pointed out that no Voter List of the year 2012, 2013, 2014 is placed on filed by the Appellant/Claimant to show that he had used the Voter ID Card No. CXY 1075662 to cast his vote in these years. Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card No. CXY 1075662 but there is no material to show as to when it was originally issued and further there is also no material to show that his name appears in the Voter List of 2012, 2013, 2014 & 2014. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-400 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-F) issued in the name of his mother Anjali in which the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-400 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tended his Passbook of PNB (Annexure-D) and Electricity Bill (Annexure-E). It is pointed out that the Passbook (Annexure-D) shows that the account was

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opened by the Appellant/Claimant on 29.12.2016 much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-E) shows that the connection was taken by his mother Anjali on 30.05.2008 and the Appellant/Claimant was not having electricity connection on the address of first floor of Jhuggi No. C-400. The abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-400 regarding which he is claiming allotment from DDA and further the Appellant/Claimant was having a valid Voter ID Card No. CXY 1075662 but there is no material to show whether it was issued prior to the cutoff date of 01.01.2015 and further there is also no material to show that his name appears in the Voter List of 2012, 2013, 2014 & 2014. The documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-400 regarding which he is claiming allotment from DDA and further the Appellant/Claimant was having a valid Voter ID Card No. CXY 1075662 but there is no material to show whether it was issued prior to the cutoff date of 01.01.2015 and further there is also no material to show that his name appears in the Voter List of 2012, 2013, 2014 & 2014. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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bearing No. 385/9/43.2/1685 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 337 of 2023

Date of Institution: 28.11.2022

Date of Order: 02.05.2023

Present: Appellant/Claimant Babita Burman W/o Dilip D/o Subhash Burman

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

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-353, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-353 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/14.1/1264 dated 07.11.2022

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to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 337 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-353 was found to exist on the upper floor but she had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Babita Burman, has been recorded before us on 19.04.2023 wherein she has stated that her in-laws, Subhash & Basanti, are having three sons, Dilip, Sapan & Pawan and one daughter Gita. All except Pawan are married. Gita is married with Raja Dhar and she is living in her matrimonial home in Jhuggi No.

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B-267, Bhoomiheen Camp. Sapan is married with Neelam and having one daughter Deepa. Dilip is married with Babita (Appellant/Claimant) and having two children Vinit & Aniket.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B-353 and it comprises of one room on each floor and further, an iron ladder is placed inside the room on the ground floor for going to the first floor and thereafter, another wooden ladder has been placed inside the room on the first floor for going to the second floor. The first and second floors are not having independent access from the gali. The first and the second floor are not separate & independent dwelling units but the same are part & parcel of one dwelling bearing Jhuggi No. A-353. The statement of the Appellant/Claimant accordingly shows that the first and the second floors are not having any independent access from the gali but in order to reach the first floor, one has to use the iron ladder placed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use the wooden ladder placed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. A-353.

9. The Appellant/Claimant has stated that her in-laws, Subhash & Basanti, along with their unmarried son Pawan are living on the ground floor of Jhuggi No. A-353 and regarding that DDA has made allotment in favour of her mother-in-law Basanti. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Sapan along with his wife Neelam and daughter Deepa is living on the second floor of the said Jhuggi No. A-353 and Neelam has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 285 of 2023 before the Appellant Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Dilip and children Vinit & Aniket is living on the first floor of the said Jhuggi No. A-353. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-353 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 337 of 2023 before

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the Appellate Authority. The Appellant/Claimant has submitted documents, Annexure-A to Annexure-N, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. It is pointed out that both the appeals bearing Appeal No. 285 of 2023 and Appeal No. 337 of 2022 shall be decided separately on their respective individual merits.

13. DDA has furnished the survey records along with three video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 19.04.2023 wherein she has stated that one video pertain to the ground floor in which her father-in-law, Subhash is seen and his room & kitchen are also seen and further an iron ladder placed inside the room on the ground floor for going to the first floor is also seen. In the second video clip, Babita (Appellant/Claimant) is seen and her room & kitchen are also seen and further, a wooden ladder is also seen placed inside her room on the first floor for going to the second floor. In the third video clip, the room & kitchen of Neelam is seen on the second floor.

14. The statement of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the Jhuggi No. A-353 is a triple storey structure and the first and second floors are not having independent access from the gali. In the video also an iron ladder is also seen going from inside the room on the ground floor to the first floor and further a wooden ladder placed inside the room on the first floor for going to the second floor is also seen. This accordingly shows that the first & second floors are not separate and independent dwelling units but the ground, first and second floors are part & parcel of one dwelling unit bearing Jhuggi No A-353. Thus instead of three there is in fact just one dwelling unit in Jhuggi No. A-353. The ground floor is one dwelling unit whereas the first & second floors are part & parcel of that dwelling unit on ground floor and accordingly all the three floors of Jhuggi No A-353 constitute single dwelling unit.

15. Thereby keeping in view that all the three floors of Jhuggi No. A-353 are one & the same dwelling unit and DDA has already made allotment in favour of Basant (mother-in-law of the Appellant/Claimant) regarding the said Jhuggi No. A-353. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of her mother-in-law,

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Basanti, therefore, neither the present Appellant/Claimant, Babita Burman, nor Neelam Burman (Appellant/Claimant in Appeal No. 285 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No. A-353.

16. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. A-353 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors constitute one dwelling unit. Thus, we have no hesitation in holding that there is one dwelling unit in Jhuggi No. A-353. Thereby taking into consideration that all the three floors are not separate & independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. A-353 and DDA has already made allotment in favour of her mother-in-law, Basanti regarding the said dwelling unit bearing Jhuggi No. A-353, therefore, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. A-353 of her mother-in-law, Basanti. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

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

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

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separate dwelling units. Accordingly, for claiming allotment against the first floor the dweller is required to have a separate Ration Card on the cut- off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with her mother-in-law, Basanti. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015 even if he possesses a Voter ID Card on the cut- off date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/14.1/1264 dated 07.11.2022.

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

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

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for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

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

21. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This

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

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

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

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

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

GIST OF THE POLICY

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

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

27. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1581032 (Annexure-A), Aadhar Card (Annexure- B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

28. It is pointed out that the Voter ID Card No. ARE 1581032 has been issued on 05.12.2012 much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 641 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 703 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 and 2019 (prior to 01-01-2015) & also in the year of survey.

29. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. A-353 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-J), which has been issued in the name of her mother-in-law, Basanti, and the name of her husband Dilip is mentioned but the name of the Appellant/Claimant is conspicuously missing. The date of issuance of Ration Card is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of first floor of Jhuggi No. A-353 regarding which she has claimed allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the

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

30. The Appellant/Claimant has also tendered Voter ID Card No. CXY 1546183 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) and her husband Dilip as well as the Passbook of Union Bank (Annexure-G), Passbook of PNB (Annexure-H) and Electricity Bill (Annexure-I).

31. It is pointed out that the Voter ID Card No. CXY 1546183 (Annexure-D) has been issued on 19.12.2005. The Passbook of Union Bank (Annexure-G) shows that the account has been opened on 15.02.2015 and the Passbook of PNB shows that the account was opened by her husband Dilip on 12.12.2009. The Electricity Bill (Annexure-I) shows that the connection has been taken by his father-in-law, Subhash on 02.06.2008 and thereby showing that the Appellant/Claimant was not having the electricity connection on the first floor of the Jhuggi No. A-353 regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that she has claimed allotment against the first floor and further all the three floors of Jhuggi No. A-353 has also been found to be one & the same dwelling unit and DDA has already made allotment in favour of her mother-in-law, Basanti, regarding the said Jhuggi No. A-353. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No A-353 has also been found to be one & the same dwelling unit and DDA has already made allotment in favour of her mother-in-law, Basanti,

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regarding the said Jhuggi No. A-353 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/14.1/1264 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 124 of 2022

Date of Institution: 22.11.2022

Date of Order: 03.05.2023

Present: Appellant/ Claimant Aarti Devi W/o Somesh D/o Nirmal Ram

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-10, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-10 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/62/60.1-B/1335 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 124 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-10 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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

7. The statement of the Appellant/Claimant, Aarti, has been recorded before us on 17.04.2023 wherein she has stated that his in-laws, Rampat Ram & Sanjaro , are having two sons Sumesh & Ramesh and two daughters Prem Kumari & Sunita. Rampat Ram had died in the year 2011. All the children are married. Both the daughters, Prem Kumari & Sunita are living in their respective matrimonial homes in Bihar. Ramesh is married with Kanchan and having three children, Aman, Abhishek & Ananya. Sumesh is married with Arti Devi (Appellant/Claimant) and having four children Akash, Suraj, Pawan & Tanya.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-10 and it comprises of one room on the ground floor and two rooms on the first floor. Her mother-in-law, Sanjaro, is living on the ground floor of the said Jhuggi No. A-10 and regarding that DDA has made allotment in favour of her mother-in-law, Sanjaro. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that Ramesh, along with his wife Kanchan & children, is living in one of the rooms on the first floor bearing Jhuggi No. A-10 and regarding that Ramesh 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. 289 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband, Somesh & four children Akash, Suraj, Pawan & Tanya, is living in the second room on the first floor of the said Jhuggi No. A-10. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-10 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 124 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. It is pointed out that both the appeals bearing Appeal No. 124 of 2022 and Appeal Mo. 289 of 2023 shall be decided separately on their individual merit.

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12. DDA has furnished the survey record along with 9 video clips pertaining to Jhuggi No. A-10. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 17.04.2023. In 4 video clips, Sanjaro, mother-in-law of the Appellant/Claimant, is seen on the ground floor of the Jhuggi No. A-10 and her room & kitchen are also seen. Further, an iron ladder placed outside from the gali and going to the first floor is also seen. In 3 video clips Ramesh is seen in his Jhuggi on the first floor and his room & kitchen are also seen. In the remaining two videos she (Arti Devi-Appellant/Claimant) is seen standing in her room on the first floor and her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-10 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-10 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the

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dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/62/60.1-B/1335 dated 07.11.2022.

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

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

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

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

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

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

18. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued

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

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

19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

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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.

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

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1672228 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2014 (Annexure-I) & Voter List of the year 2019 (Annexure-J).

24. It is pointed out that the Voter ID Card No. ARE 1672228 has been issued on 03.04.2013, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 137 in the Voter List of 2014 (Annexure-I) and at Sl. No. 233 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

25. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-10 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her joint Ration Card (Annexure-I), which has been issued in the name of her mother-in-law, Sanjaro, and the names of the family members, including that of the present Appellant/Claimant, has been recorded but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-10 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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26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1131556 (Annexure-D), Aadhar Card (Annexure-E), Driving License (Annexure-F) & Pass Book of PNB (Annexure-G) of her husband Sumesh as well as the Electricity Bill (Annexure-H).

27. It is pointed out that the Voter ID Card No. ARE 1131556 (Annexure-D) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Driving License (Annexure-F) has been issued on 02.01.2008. The Pass Book of PNB (Annexure-F) shows that the account has been opened on 07.10.2015. The Electricity Bill (Annexure-H) shows that the connection has been taken by her mother-in-law on 21.06.2008 on her Jhuggi on the ground floor and this shows that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. A-10 regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

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29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/62/60.1-B/1335 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 146 of 2022

Date of Institution: 22.11.2022

Date of Order: 03.05.2023

Present: Appellant/ Claimant Raju S/o Dalip Mahto

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-3, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-3 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/122.G/1654

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dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 146 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 21.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-3 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Raju, has been recorded before us on 21.04.2023 wherein he has stated that his parents, Dalip & Lal Pari, are having two sons; Raju (Appellant/Claimant) & Sanjay and two daughters; Rita & Sita. Lal Pari has expired in the year 2014. All the children are married. Both the daughters Rita & Sita are living in their respective matrimonial homes. Sanjay is married with Maha Laxmi and having one son Aditya. Raju (Appellant/Claimant) is married with Sangita and having one son Vicky.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-3 and it comprises of one room on the ground floor and two rooms on the first floor. His father Dalip is living on the ground floor of the said Jhuggi No. A-3 and regarding that DDA has made allotment in favour of his father Dalip. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brother Sanjay along with his family is living in one of the rooms on the first floor bearing Jhuggi No. A-3 and regarding that Sanjay has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 332 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Sangita and son Vicky is living in the second room on the first floor of the said Jhuggi No. A-3. The Appellant/Claimant has sought allotment from DDA against the said room on the first floor of Jhuggi No. A-3 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 146 of 2022. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with nine video clips pertaining to Jhuggi No. A-3. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.04.2023. In four video clips, Dalip is seen on the ground floor of the Jhuggi No. A-3 and his room & kitchen are also seen and a pucca staircase from outside the gali going to the upper floor is also seen. The next two videos a pucca staircase from outside to the first floor is seen and the room & kitchen of Sanjay

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on the first floor of Jhuggi No. A-3 is seen and further, the roof made of asbestos sheet is also seen. In the next three videos, Rita who is the sister of the present Appellant/Claimant Raju is seen getting the survey conducted on his behalf and further, no room is seen but only a kitchen is seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-3 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and it comprises of one room on the ground floor and one room on the first floor whereas the second room on the first floor is a kitchen and not a room as wrongly alleged by the Appellant/Claimant. Dalip, who is the father of the present Appellant/ Claimant is living on the ground floor and Sanjay, who is the brother of the present Appellant/ Claimant is living in one of the room on the first floor. Thus there was no second room, which can be used by the Appellant/ Claimant for residential purposes as it is found to be a kitchen. This shows that the Appellant/ Claimant has come forward with a wrong and false story to claim allotment from DDA by hook or crook.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-3 Bhoomiheen Camp is a pucca structure and Dalip, who is the father of the present Appellant/ Claimant is living on the ground floor and Sanjay, who is the brother of the present Appellant/ Claimant, is living in one of the room on the first floor. But there was no second room, which can be used by the Appellant/Claimant for residential purposes as it is found to be a kitchen. Therefore, the Appellant/Claimant was not using the second room on the first floor of the said Jhuggi for residential purposes. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/122.G/1654 dated 07.11.2022.

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

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

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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).

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

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

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

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

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

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GIST OF THE POLICY

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

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1650063 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-H) & Voter List of the year 2015 (Annexure-I).

23. It is pointed out that the Voter ID Card No. ARE 1650063 has been issued on 23.05.2013, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 101 in the Voter List of the year 2014 (Annexure-H) and at Sl. No. 195 in the Voter List of the year 2015 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-

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3 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-E) which has been issued in the name of his mother Lal Pari on 29.11.2014 and the name of the Appellant/Claimant has been mentioned therein. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-3 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Passbook of the Allahabad Bank (Annexure-D) & Driving License (Annexure-F) and Aadhar Card of his wife Sangita (Annexure-G).

26. It is pointed out that the Passbook of Allahabad Bank (Annexure-D) shows that the account was opened on 09.07.2021 and further the Driving License (Annexure-F) shows that it was issued on 11.09.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and

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his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/122.G/1654 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 289 of 2023

Date of Institution: 25.11.2022

Date of Order: 03.05.2023

Present: Appellant/ Claimant Ramesh S/o Rampati Ram

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-10, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-10 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/62/60.1/1334 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 289 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-10 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Ramesh, has been recorded before us on 17.04.2023 wherein he has stated that his parents, Rampat Ram & Sanjaro, are having two sons Sumesh & Ramesh and two daughters Prem Kumari & Sunita. Rampat Ram had died on 11.04.2011 and his Death Certificate is Annexure-E. All the children are married. Both the daughters, Prem Kumari & Sunita are living in their respective matrimonial homes in Bihar. Sumesh is married with Arti Devi and having four children Akash, Suraj, Pawan & Tanya. Ramesh (Appellant/Claimant) is married with Kanchan and having three children, Aman, Abhishek & Ananya.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-10 and it comprises of one room on the ground floor and two rooms on the first floor. His mother Sanjaro is living on the ground floor of the said Jhuggi No. A-10 and regarding that DDA has made allotment in favour of his mother Sanjaro. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brother Sumesh along with his wife Arti Devi & children is living in one of the rooms on the first floor bearing Jhuggi No. A-10 and regarding that Arti 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. 124 of 2022 before the Appellate Authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Kanchan & three children is living in the second room on the first floor of the said Jhuggi No. A-10. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-10 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 289 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. It is pointed out that both the appeals bearing Appeal No. 124 of 2022 and Appeal Mo. 289 of 2023 shall be decided separately on their individual merit.

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12. DDA has furnished the survey record along with 9 video clips pertaining to Jhuggi No. A-10. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.04.2023. In 4 video clips, Sanjaro, mother of the Appellant/Claimant, is seen on the ground floor of the Jhuggi No. A-10 and her room & kitchen are also seen. Further, an iron ladder placed outside from the gali and going to the first floor is also seen. In 3 video clips he (Ramesh-Appellant/Claimant) is seen in his Jhuggi on the first floor and his room & kitchen are also seen. In the remaining two videos, Arti Devi is seen standing in her room on the first floor and her room & kitchen are also seen Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-10 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-10 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

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

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In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/62/60.1/1334 dated 07.11.2022.

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

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

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purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

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

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

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

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

19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

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22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1131580 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2014 (Annexure-I) & Voter List of the year 2019 (Annexure-J).

24. It is pointed out that the Voter ID Card No. ARE 1131580 has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 138 in the Voter List of 2014 (Annexure-I) and at Sl. No. 234 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

25. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-10 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the old joint Ration Card (Annexure-G), which has been issued on 02.12.2011, in the name of his mother, Sanjaro, and the names of the family members, including that of the present Appellant/Claimant, has been recorded. The Appellant/Claimant has tendered the new joint Ration Card (Annexure-H), which has been issued in the name of his mother, Sanjaro, and the names of the family members, including that of the present Appellant/Claimant, has been recorded but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-10 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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26. The Appellant/Claimant has tendered his Driving License (Annexure-D) and Pass Book of PNB (Annexure-F).

27. It is pointed out that Driving License (Annexure-D) has been issued on 17.11.2005. The Pass Book of PNB (Annexure-F) shows that the account has been opened on 08.10.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/62/60.1/1334 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its

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

(Ranbir Singh) 3/5/2023	**(Satish Ahlawat)** 3/5/2023	**(Rachna Tiwary)** 3/5/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 320 of 2023

Date of Institution: 28.11.2022

Date of Order: 03.05.2023

Present: Appellant/ Claimant Ashok Kumar S/o Ram Chandra

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-86, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-86 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/41/37.1/1068 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 320 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 25.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-10 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Ashok Kumar, has been recorded before us on 25. 04.2023 wherein he has stated that his parents, Ram Chander & Kalawati, are having one son Ashok and two daughters Guddi & Usha. Ram Chander had expired in the year 2011. All the children are married. Usha is living in her matrimonial home in Uttar Pradesh. However, Guddi, after her marriage is living with parents in Bhoomiheen Camp. Ashok is married with Manju and having three children Deepa, Swati & Saurabh.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-86 and it is having a pucca staircase going from outside in the gali to the upper floor. His parents, Ram Chander (till his death in 2011) & Kalawati, along with the family of their daughter Guddi have been living on the ground floor of Jhuggi no. A-86 and regarding that DDA has made allotment in favour of his mother Kalawati. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Manju and three children is living on the first floor of Jhuggi No. A-86. The Appellant/Claimant has claimed allotment from DDA against the said Jhuggi No. A-86 but his claim has been rejected by DDA and aggrieved by the same, he has filed the present Appeal No. 320 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. A-86. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 25.04.2023 wherein he has stated that in four videos his mother Kalawati is seen on the ground floor of the Jhuggi No. A-86 and her room & kitchen are also seen. In the other two video clips, a pucca staircase going from the ground floor to the second floor is seen and further, the Appellant/Claimant, Ashok, is also seen and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-86 was in existence in the Bhoomiheen Camp on the cutoff

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date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-86 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

14. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/41/37.1/1068 dated 07.11.2022.

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

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

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

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

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

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

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17. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

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

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21. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1081652 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2015 (Annexure-L) & Voter List of the year 2019 (Annexure-M).

22. It is pointed out that the Voter ID Card No. CXY 1081652 has been issued on 10.03.2002, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 490 in the Voter List of 2015 (Annexure-L) and at Sl. No. 556 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 and also in the year of survey.

23. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-86 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the old joint Ration Card (Annexure-J), which has been issued on 22.08.2002, in the name of his father, Ram Chander, and the names of the family members, including that of the present Appellant/Claimant, has been recorded. The Appellant/Claimant has tendered the new joint Ration Card (Annexure-I), which has been issued on 20.09.2008, in the name of his father, Ram Chander, and the names of the family members, including that of the present Appellant/Claimant, has been recorded. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-86 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has tendered his Driving License (Annexure-D), the Voter ID Card No. CXY 1082023 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Manju as well as the Electricity Bill (Annexure-G), Pass Book of OBC (Annexure-H) and Caste Certificate (Annexure-K).

25. It is pointed out that Driving License (Annexure-D) has been issued on 03.02.2004. The Voter ID Card No. CXY 1082023 (Annexure-E) has been issued on 21.02.2002. The Electricity Bill (Annexure-G) shows that the connection has been taken by his

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father Ram Chander on 08.07.2008 on the ground floor of Jhuggi No. A-86 and the Appellant/Claimant was not having any connection on the first floor of Jhuggi No. A-86 regarding which he is claiming allotment from DDA. The Pass Book of OBC (Annexure-H) shows that the account has been opened on 17.02.2014 and Caste Certificate (Annexure-K) has been issued on 01.06.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 and also in the year of survey.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/41/37.1/1068 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its

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

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

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

Appeal No: 335 of 2023

Date of Institution: 28.11.2022

Date of Order: 03.05.2023

Present: Appellant/ Claimant Shambhu Dutta S/o Parma Nand Dutta

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-342, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-342 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/60/15.1/1246 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 335 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 21.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-342 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant Shambhu Dutta has been recorded before us on 21.04.2023 wherein he has stated that his parents, Parma Nand & Savita, are having

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two sons; Shambhu (Appellant/Claimant) & Anand and one daughter, Rupa Bala. All the children are married. Rupa Bala is married with Shekhar and she is living in her matrimonial home in Jhuggi No. B-201, Bhoomiheen Camp regarding which she has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, Rupa Bala has filed an appeal before the Appellate Authority for redressal. Anand is married with Itika and having two children; Anshu & Rudhima. Shambhu (Appellant/Claimant) is married with Dayatri and having one son Prateek.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. A-342 and it comprises of one room on each floor. The Appellant/Claimant has stated that his parents, Parma Nand & Savita, are living on the ground floor of the said Jhuggi No. A-342 and regarding that DDA has made allotment in favour of his mother, Savitri. His brother Anand along with his family is living on the second floor of the said Jhuggi No. A-342 but he has not sought allotment from DDA. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Dayatri and son Prateek is living on the first floor of the said Jhuggi No. A-342. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-342 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 335 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. A-342. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.04.2023. In three video clips, Savita, mother of the Appellant/Claimant, is seen on the ground floor of the Jhuggi No. A-342 and her room & kitchen are also seen. Further, an iron ladder placed outside from the gali and going to the first floor is also seen. The remaining one video pertains to the first floor of the Jhuggi No. A-342 in which Shambhu (Appellant/Claimant) is seen and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-342 was

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in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-342 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

14. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/60/15.1/1246 dated 07.11.2022.

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

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reproduced as under:

"Part-B

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

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

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

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

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

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

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

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

17. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against

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

GIST OF THE POLICY

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

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

21. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1791080 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2014 (Annexure-I) & Voter List of the year 2019 (Annexure-J).

22. It is pointed out that the Voter ID Card No. ARE 1791080 has been issued on 18.08.2014, just a few months before the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 610 in the Voter List of 2014 (Annexure-I) and at Sl. No. 672 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no

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hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

23. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-342 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-H) which has been issued in the name of his mother, Savitri, and the names of the family members, including that of the present Appellant/Claimant, has been recorded but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-342 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has tendered his Driving License (Annexure-D) as well as the Aadhar Card (Annexure-E), PAN Card (Annexure-F) of his wife Dayatri and Electricity Bill (Annexure-G).

25. It is pointed out that Driving License (Annexure-D) has been issued on 27.10.2014. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken on 11.06.2008 by his father Parma Nand on the ground floor of Jhuggi No. A-342 and this shows that the Appellant/Claimant was not having an electricity connection on the address of first floor of Jhuggi No. A-342 regarding which he his claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/60/15.1/1246 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 194 of 2022

Date of Institution: 23.11.2022

Date of Order: 04.05.2023

Present: Appellant/Claimant Supriya Biswas W/o Ashutosh D/o Sapan Biswas

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-164, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-164 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/61/35.1/1278 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 194 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-164 was found to exist on the upper floor but she had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not Verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Supriya, has been recorded before us on 28.04.2023 wherein she has stated that her grandparents-in-laws, Paritosh & Sumitra, are having four sons; Santosh, Mantu, Parimal & Nirmal and two daughters Kanika & Namita. Paritosh has expired in the year 2005 and Sumitra in the year 2017. Kanika & Namita are living in their respective matrimonial homes in Madangiri Khadar, Delhi & Kapashera, Delhi. Parimal is married with Sheela and having two children Khushi & Prateek. Mantu is married with Beena and having three sons; Ashish, Mohit & Manish and all three are unmarried. Nirmal is married with Soma and having one daughter Sneha. Santosh is married with Manju and having three children Ashutosh, Avinash & Anis. Santosh has expired in the year 2007. Ashutosh who is the son of Santosh is married with Supriya (Appellant/Claimant).

8. The Appellant/Claimant has stated that her family is having two adjoining Jhuggis bearing Nos. B-164 & B-170 and both are triple storey Jhuggis having one room on each floor. Both the Jhuggis are abutting and interconnected with each other and having common pucca staircase constructed inside the room on the ground floor of both the Jhuggis bearing Nos. B-164 & B-170 and the said staircase is used for going to the first floor of both the Jhuggis. Furthermore, a common pucca staircase is going from the first floor to the second floor of both the Jhuggis. The first and the second floors of both the Jhuggis No. B-164 & B-170 are not having any independent access from the gali but for going to the first and the second floors of both the Jhuggis one has to use the pucca staircase constructed inside the room on the ground floor which are interconnected with each other.

9. The statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. B-164 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164.

Further, the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. B-170 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the

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second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170.

Accordingly, there in one dwelling unit bearing Jhuggi No. B-164 comprising of all the three floors of the said Jhuggi No. B-164 and there is another dwelling unit bearing Jhuggi No. B-170 comprising of all the three floors of the said Jhuggi No. B-170.

Jhuggi No. B-170

10. The Appellant/Claimant has stated that Mantu along with his wife Beena and family is living on the ground floor of the Jhuggi No. B-170 and a pucca staircase is constructed inside the room on the ground floor for going to the first and the second floors. Beena Das has sought allotment from DDA against the ground floor of Jhuggi No. B-170 and regarding that DDA has made allotment in favour of Beena Das. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Parimal along with his wife Sheela and family is living on the first floor of the said Jhuggi No. B-170 and regarding that Sheela has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 445 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Ashish S/o Mantu & Beena Das, is living on the second floor of the said Jhuggi no. B-170 and regarding that Ashish has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 690 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

Jhuggi No. B-164

13. The Appellant/Claimant has stated that the Jhuggi No. B-164 is a triple storey structure and it comprises of one room on each floor and further, a pucca staircase is constructed inside the room on the ground floor for going to the first and the second floors. Manju W/o Santosh is living on the ground floor of Jhuggi No. B-164 and regarding that DDA has made allotment in favour of Manju. These facts are not disputed by DDA.

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14. The Appellant/Claimant has stated that Nirmal along with his wife Soma & family is living on the second floor of the said Jhuggi No. B-164 and regarding that Soma 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. 409 of 2023 before the Appellate Authority.

15. The Appellant/Claimant has stated that she along with her husband Ashutosh S/o Santosh & Manju, is living on the first floor of Jhuggi No. B-164 and regarding that she has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 194 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered the documents Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. It is pointed out that all the four Appeals bearing Appeal No. 194 of 2022, Appeal No. 409 of 2023, Appeal No. 445 of 2023 and Appeal No. 690 of 2023 shall be decided separately on their respective individual merits.

Videos of Jhuggi No. B-170

17. DDA has furnished the survey record along with 10 video clips of Jhuggi No. B-170. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 28.04.2023 wherein she has stated that in five video clips, Bina W/o Mantu is seen on the ground floor of the Jhuggi No. B-170 and her room & kitchen are also seen. In the other two videos, Sheela is seen on the first floor of the Jhuggi No. B-170 and her room & kitchen are also seen. In the remaining three videos, Ashish S/o Mantu & Beena, is seen on the second floor of the Jhuggi No. B-170 and his room is seen but the kitchen is not seen.

Videos of Jhuggi No. B-164

18. DDA has furnished the survey record along with 10 video clips of Jhuggi No. B-164. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 28.04.2023 wherein she has stated that three videos pertain to the ground floor of the Jhuggi No. B-164 in which Manju is seen and her room & kitchen are also seen. In the other four video clips, Supriya W/o Ashutosh (Appellant/Claimant) is seen and her room & kitchen are also seen. In the remaining

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three videos Soma W/o Nirmal is seen on the second floor and my room & kitchen are also seen.

19. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-164 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164.

20. Thereby keeping in view that all the three floors of Jhuggi No. B-164 are part of one dwelling unit and DDA has already made allotment in favour of Manju W/o Santosh regarding the said Jhuggi No. B-164. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Manju W/o Santosh, therefore, neither Soma (Appellant/Claimant in Appeal No. 409 of 2022) nor Supriya W/o Ashutosh (Appellant/Claimant in Appeal No. 194 of 2022) are entitled to seek second allotment from DDA against that very Jhuggi No. B-164.

21. In addition to that the admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-170 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170.

22. Thereby keeping in view that all the three floors of Jhuggi No. B-170 are part of one dwelling unit and DDA has already made allotment in favour of Beena W/o Montu regarding the said Jhuggi No. B-170. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already

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made allotment in favour of Beena W/o Montu, therefore neither Sheeela W/o Parimal (Appellant/Claimant in Appeal No. 445 of 2023) nor Ashish S/o Montu (Appellant/Claimant in Appeal No. 690 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No. B-170.

23. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-164 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors constitute one dwelling unit. Thus, we have no hesitation in holding that there is one dwelling unit in Jhuggi No. B-164. Thereby taking into consideration that all the three floors are not separate & independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164 and DDA has already made allotment in favour of Manju W/o Santosh regarding the said dwelling unit bearing Jhuggi No. B-164, therefore, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. B-164 of Manju W/o Santosh. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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

26. 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

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criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015 Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/35.1/1278 dated 07.11.2022.

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**
> **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

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for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

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

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

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

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

29. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

32. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant

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was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

34. The Appellant/Claimant has tendered her Voter ID Card ARE-2611861 (Annexure-A), Aadhar Card (Annexure-B) & Pan Card (Annexure-C).

35. It is pointed out that the Voter ID Card ARE-2611861 (Annexure-A) has been issued on 19.12.2022, much after the cutoff date of 01.01.2015. Accordingly, the question of her name appearing in the Voter List of the of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. B-164 regarding which she is claiming allotment from DDA. She has tendered joint Ration Card (Annexure-F) issued in favour of her mother-in-law Manju W/o Santosh and the name of Ashutosh is mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-164 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that

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the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

37. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2290294 (Annexure-D), Pan Card (Annexure-E) & Aadhar Card (Annexure-I) of the her husband Ashutosh as well as the Electricity Bill (Annexure-G) and Pass Book of SBI (Annexure-G) and v

38. It is pointed out that the Voter ID Card No. ARE 2290294 (Annexure-D) has been issued on 23.10.2019, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken in the name of her father-in-law, Santosh, on 14.06.2008. The Pass Book of PNB (Annexure-H) shows that the account was opened on 13.10.2014 but on the address of Faridabad. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 further all the three floors of Jhuggi No. B-164 has also been found to be part of one dwelling unit and DDA has already made allotment in favour of Manju (mother-in-law of Appellant/Claimant) regarding the said Jhuggi No. B-164. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. B-164 have also been found to be part of one dwelling unit and DDA has already made allotment in favour of Manju (mother-in-law of Appellant/Claimant) regarding the said Jhuggi No. B-164 and accordingly, two allotments against the same Jhuggi are not permissible as

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

40. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/35.1/1278 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 409 of 2023

Date of Institution: 29.11.2022

Date of Order: 04.05.2023

Present: Appellant/Claimant Soma W/o Nirmal Das

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-164, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-164 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/61/35.2/1279 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 409 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-164 was found to exist on the upper floor but she had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Soma, has been recorded before us on 28.04.2023 wherein she has stated that her in-laws, Paritosh & Sumitra, are having

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four sons; Santosh, Mantu, Parimal & Nirmal and two daughters Kanika & Namita. Paritosh has expired in the year 2005 and Sumitra in the year 2017. Kanika & Namita are living in their respective matrimonial homes in Madangiri Khadar, Delhi & Kapashera, Delhi. Parimal is married with Sheela and having two children Khushi & Prateek. Mantu is married with Beena and having three sons; Ashish, Mohit & Manish and all three are unmarried. Santosh is married with Manju and having three children Ashutosh, Avinash & Anis. Santosh has expired in the year 2007. Ashutosh who is the son of Santosh is married with Supriya. Nirmal is married with Soma (Appellant/Claimant) and having one daughter Sneha.

8. The Appellant/Claimant has stated that her family is having two adjoining Jhuggis bearing Nos. B-164 & B-170 and both are triple storey Jhuggis having one room on each floor. Both the Jhuggis are abutting and interconnected with each other and having common pucca staircase constructed inside the room on the ground floor of both the Jhuggis bearing Nos. B-164 & B-170 and the said staircase is used for going to the first floor of both the Jhuggis. Furthermore, a common pucca staircase is going from the first floor to the second floor of both the Jhuggis. The first and the second floors of both the Jhuggis No. B-164 & B-170 are not having any independent access from the gali but for going to the first and the second floors of both the Jhuggis one has to use the pucca staircase constructed inside the room on the ground floor which are interconnected with each other.

9. The statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. B-164 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164.

Further, the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. B-170 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on

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the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170.

Accordingly, there in one dwelling unit bearing Jhuggi No. B-164 comprising of all the three floors of the said Jhuggi No. B-164 and there is another dwelling unit bearing Jhuggi No. B-170 comprising of all the three floors of the said Jhuggi No. B-170.

Jhuggi No. B-170

10. The Appellant/Claimant has stated that Mantu along with his wife Beena and family is living on the ground floor of the Jhuggi No. B-170 and a pucca staircase is constructed inside the room on the ground floor for going to the first and the second floors. Beena Das has sought allotment from DDA against the ground floor of Jhuggi No. B-170 and regarding that DDA has made allotment in favour of Beena Das. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Parimal along with his wife Sheela and family is living on the first floor of the said Jhuggi No. B-170 and regarding that Sheela has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 445 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Ashish S/o Mantu & Beena Das, is living on the second floor of the said Jhuggi no. B-170 and regarding that Ashish has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 690 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

Jhuggi No. B-164

13. The Appellant/Claimant has stated that the Jhuggi No. B-164 is a triple storey structure and it comprises of one room on each floor and further, a pucca staircase is constructed inside the room on the ground floor for going to the first and the second floors. Manju W/o Santosh is living on the ground floor of Jhuggi No. B-164 and regarding that DDA has made allotment in favour of Manju. These facts are not disputed by DDA.

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14. The Appellant/Claimant has stated that Ashutosh, who is the son of Santosh & Manju, is married with Supriya and they are living on the first floor of the said Jhuggi No. B-164 and regarding that Supriya 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. 194 of 2022 before the Appellate Authority.

15. The Appellant/Claimant has stated that she along with her husband Nirmal and children, is living on the second floor of Jhuggi No. B-164 and regarding that she has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 409 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered the documents Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. It is pointed out that all the four Appeals bearing Appeal No. 194 of 2022, Appeal No. 409 of 2023, Appeal No. 445 of 2023 and Appeal No. 690 of 2023 shall be decided separately on their respective individual merits.

Videos of Jhuggi No. B-170

17. DDA has furnished the survey record along with 10 video clips of Jhuggi No. B-170. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 28.04.2023 wherein she has stated that in five video clips, Bina W/o Mantu is seen on the ground floor of the Jhuggi No. B-170 and her room & kitchen are also seen. In the other two videos, Sheela is seen on the first floor of the Jhuggi No. B-170 and her room & kitchen are also seen. In the remaining three videos, Ashish S/o Mantu & Beena is seen on the second floor of the Jhuggi No. B-170 and his room is seen but the kitchen is not seen.

Videos of Jhuggi No. B-164

18. DDA has furnished the survey record along with 10 video clips of Jhuggi No. B-164. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 28.04.2023 wherein she has stated that three videos pertain to the ground floor of the Jhuggi No. B-164 in which Manju is seen and her room & kitchen are also seen. In the other four video clips, Supriya W/o Ashutosh is seen and

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her room & kitchen are also seen. In the remaining three videos Soma W/o Nirmal (Appellant/Claimant) is seen on the second floor and my room & kitchen are also seen.

19. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-164 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164.

20. Thereby keeping in view that all the three floors of Jhuggi No. B-164 are part of one dwelling unit and DDA has already made allotment in favour of Manju W/o Santosh regarding the said Jhuggi No. B-164. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Manju W/o Santosh, therefore, neither Soma (Appellant/Claimant in Appeal No. 409 of 2022) nor Supriya W/o Ashutosh (Appellant/Claimant in Appeal No. 194 of 2022) are entitled to seek second allotment from DDA against that very Jhuggi No. B-164.

21. In addition to that the admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-170 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170.

22. Thereby keeping in view that all the three floors of Jhuggi No. B-170 are part of one dwelling unit and DDA has already made allotment in favour of Beena W/o Montu regarding the said Jhuggi No. B-170. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already

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made allotment in favour of Beena W/o Montu, therefore neither Sheeela W/o Parimal (Appellant/Claimant in Appeal No. 445 of 2023) nor Ashish S/o Montu (Appellant/Claimant in Appeal No. 690 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No. B-170.

23. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-164 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors constitute one dwelling unit. Thus, we have no hesitation in holding that there is one dwelling unit in Jhuggi No. B-164. Thereby taking into consideration that all the three floors are not separate & independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164 and DDA has already made allotment in favour of Manju W/o Santosh regarding the said dwelling unit bearing Jhuggi No. B-164, therefore, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the second floor because it is part & parcel of single dwelling unit bearing Jhuggi No. B-164 of Manju W/o Santosh. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

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

26. 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

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criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/35.2/1279 dated 07.11.2022.

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 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

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have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

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

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

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

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

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

30. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

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31. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

> *"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-*
>
> *(1) words importing the masculine gender shall also be taken to include females; and*
>
> *(2) words in the singular shall include the plural, and vice versa.*

32. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

33. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

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In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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

GIST OF THE POLICY

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

36. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

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37. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

38. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

39. 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 her favour.

40. The Appellant/Claimant has tendered her Aadhar Card (Annexure-A) & Pan Card (Annexure-B). It is pointed out at the vey outset that the Appellant/Claimant has categorically admitted that she is not having a Voter ID Card. Accordingly, the question of her name appearing in the Voter List of the of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2015 and 2019 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

41. The Appellant/Claimant has tendered the Voter ID Card bearing number ARE 1147271 (Annexure-C), Aadhar Card (Annexure-D), Driving License (Annexure-E), Pan Card (Annexure-F) of her husband Nirmal Das as well as his Voter List of the year 2012 (Annexure-I) and Voter List of the year 2019 (Annexure-J), Electricity Bill (Annexure-H), and Pass Book of Dena Bank (Annexure-K).

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42. It is pointed out that the Voter ID Card bearing number ARE 1147271 (Annexure-C) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015 and his name is reflected in the Voter List of the year 2012 (Annexure-I) and Voter List of the year 2019 (Annexure-J). The Driving License (Annexure-E) has been issued on 13.12.2013. The Electricity Bill (Annexure-H) shows that the connection has been taken by Santosh on 16.06.2008 and the Pass Book of Dena Bank (Annexure-K) shows that the account was opened by the husband Nirmal Das on 15.03.2017. But the fact remains that the Appellant/Claimant is not having Voter Id Card and her name also does not appear in at least on the voter list of the year's 2015 and 2019 (prior to 01-01-2015) & also in the year of survey, therefore, 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.

43. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the second floor of the said Jhuggi No. B-164 regarding which she is claiming allotment from DDA. He has tendered joint Ration Card (Annexure-G) issued in favour of her sisiter-in-law, Manju and the name of Nirmal Das has been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. B-164 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.

44. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. B-164 has also been found to part of one dwelling unit and DDA has already made allotment in favour of Manju W/o Santosh regarding the said Jhuggi No. B-164. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in

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holding that the Jhuggi on the second floor bearing No. B-164 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. B-164 has also been found to part of one dwelling unit and DDA has already made allotment in favour of Manju W/o Santosh regarding the said Jhuggi No. B-164 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/35.2/1279 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

4/5/2023

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

4/5/2023

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

4/5/2023

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 445 of 2023

Date of Institution: 29.11.2022

Date of Order: 04.05.2023

Present: Appellant/Claimant Sheela Das W/o Parimal Das

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-170, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-170 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/90.G/1646 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 445 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-170 was found to exist on the upper floor but she had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Sheela Das, has been recorded before us on 28.04.2023 wherein she has stated that her in-laws, Paritosh & Sumitra, are having four sons; Santosh, Mantu, Parimal & Nirmal and two daughters Kanika & Namita. Paritosh has expired in the year 2005 and Sumitra in the year 2017. Kanika & Namita are living in their respective matrimonial homes in Madangiri Khadar, Delhi & Kapashera, Delhi. Mantu is married with Beena and having three sons; Ashish, Mohit &

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Manish and all three are unmarried. Nirmal is married with Soma and having one daughter Sneha. Santosh is married with Manju and having three children Ashutosh, Avinash & Anis. Santosh has expired in the year 2007. Ashutosh who is the son of Santosh is married with Supriya. Parimal is married with Sheela (Appellant/Claimant) and having two children Khushi & Prateek.

8. The Appellant/Claimant has stated that her family is having two adjoining Jhuggis bearing Nos. B-164 & B-170 and both are triple storey Jhuggis having one room on each floor. Both the Jhuggis are abutting and interconnected with each other and having common pucca staircase constructed inside the room on the ground floor of both the Jhuggis bearing Nos. B-164 & B-170 and the said staircase is used for going to the first floor of both the Jhuggis. Furthermore, a common pucca staircase is going from the first floor to the second floor of both the Jhuggis. The first and the second floors of both the Jhuggis No. B-164 & B-170 are not having any independent access from the gali but for going to the first and the second floors of both the Jhuggis one has to use the pucca staircase constructed inside the room on the ground floor which are interconnected with each other.

9. The statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. B-164 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164.

Further, the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. B-170 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170.

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Accordingly, there in one dwelling unit bearing Jhuggi No. B-164 comprising of all the three floors of the said Jhuggi No. B-164 and there is another dwelling unit bearing Jhuggi No. B-170 comprising of all the three floors of the said Jhuggi No. B-170.

Jhuggi No. B-164

10. The Appellant/Claimant has stated that the Jhuggi No. B-164 is a triple storey structure and it comprises of one room on each floor and further, a pucca staircase is constructed inside the room on the ground floor for going to the first and the second floors. Manju W/o Santosh is living on the ground floor of Jhuggi No. B-164 and regarding that DDA has made allotment in favour of Manju. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Nirmal along with his wife Soma & family is living on the second floor of the said Jhuggi No. B-164 and regarding that Soma 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. 409 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Supriya along with her husband Ashutosh S/o Santosh & Manju, is living on the first floor of Jhuggi No. B-164 and regarding that she has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 194 of 2022 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. B-170

13. The Appellant/Claimant has stated that Mantu along with his wife Beena and family is living on the ground floor of the Jhuggi No. B-170 and a pucca staircase is constructed inside the room on the ground floor for going to the first and the second floors. Beena Das has sought allotment from DDA against the ground floor of Jhuggi No. B-170 and regarding that DDA has made allotment in favour of Beena Das. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that Ashish S/o Mantu & Beena Das, is living on the second floor of the said Jhuggi no. B-170 and regarding that Ashish has sought allotment from DDA but his claim has been rejected by Eligibility Determination

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Committee and aggrieved by the same, he has filed the Appeal No. 690 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

15. The Appellant/Claimant has stated that she along with her husband Parimal and family is living on the first floor of the said Jhuggi No. B-170 and regarding that she has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 445 of 2023 before the Appellate Authority. These facts are not disputed by DDA. The Appellant/Claimant has tendered the documents Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. It is pointed out that all the four Appeals bearing Appeal No. 194 of 2022, Appeal No. 409 of 2023, Appeal No. 445 of 2023 and Appeal No. 690 of 2023 shall be decided separately on their respective individual merits.

Videos of Jhuggi No. B-164

17. DDA has furnished the survey record along with 10 video clips of Jhuggi No. B-164. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 28.04.2023 wherein she has stated that three videos pertain to the ground floor of the Jhuggi No. B-164 in which Manju is seen and her room & kitchen are also seen. In the other four video clips, Supriya W/o Ashutosh is seen and her room & kitchen are also seen. In the remaining three videos Soma W/o Nirmal is seen on the second floor and my room & kitchen are also seen.

Videos of Jhuggi No. B-170

18. DDA has furnished the survey record along with 10 video clips of Jhuggi No. B-170. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 28.04.2023 wherein she has stated that in five video clips, Bina W/o Mantu is seen on the ground floor of the Jhuggi No. B-170 and her room & kitchen are also seen. In the other two videos, Sheela (Appellant/Claimant) is seen on the first floor of the Jhuggi No. B-170 and her room & kitchen are also seen. In the remaining three videos, Ashish S/o Mantu & Beena, is seen on the second floor of the Jhuggi No. B-170 and his room is seen but the kitchen is not seen.

19. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the

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time of survey and it shows that the first and the second floors of the Jhuggis No. B-164 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164.

20. Thereby keeping in view that all the three floors of Jhuggi No. B-164 are part of one dwelling unit and DDA has already made allotment in favour of Manju W/o Santosh regarding the said Jhuggi No. B-164. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Manju W/o Santosh, therefore, neither Soma (Appellant/Claimant in Appeal No. 409 of 2022) nor Supriya W/o Ashutosh (Appellant/Claimant in Appeal No. 194 of 2022) are entitled to seek second allotment from DDA against that very Jhuggi No. B-164.

21. In addition to that the admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-170 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170.

22. Thereby keeping in view that all the three floors of Jhuggi No. B-170 are part of one dwelling unit and DDA has already made allotment in favour of Beena W/o Montu regarding the said Jhuggi No. B-170. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Beena W/o Montu, therefore neither Sheeela W/o Parimal (Appellant/Claimant in Appeal No. 445 of 2023) nor Ashish S/o Montu (Appellant/Claimant in Appeal No. 690 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No. B-170.

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23. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-170 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors constitute one dwelling unit. Thus, we have no hesitation in holding that there is one dwelling unit in Jhuggi No. B-170. Thereby taking into consideration that all the three floors are not separate & independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170 and DDA has already made allotment in favour of Beena W/o Montu regarding the said dwelling unit bearing Jhuggi No. B-170, therefore, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the present Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. B-170 of Beena W/o Montu. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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

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

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not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015 Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/90.1G/1646 dated 07.11.2022.

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

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

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

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

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

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

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

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29. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

32. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & 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

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year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

34. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1147461 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L)

35. It is pointed out that the Voter ID Card bearing number ARE 1147461 (Annexure-A) has been issued on 21.10.2008, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 434 in the Voter list of the year 2014 (Annexure-K) Aand at Sl. No. 444 in the Voter list of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the year 2014 2014 and also in the year of survey.

36. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. B-170 regarding which she is claiming allotment from DDA. She has tendered joint Ration Card (Annexure-I) issued in favour of her sister-in-law Beena and having the name of the Appellant/ Claimant but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. B-170 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.

37. The Appellant/Claimant has tendered the Voter ID Card No. DL/03/035/243190 (Annexure-D), Aadhar Card (Annexure-E) & Pan Card (Annexure-F) of her husband Parimal as well as the Aadhar Cards of Khushi Das & Pratik (Annexure-G & Annexure-H)) and Electricity Bill (Annexure-J),

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38. It is pointed out that the Voter ID Card No. DL/03/035/243190 (Annexure-D) has been issued on 01.02.1995. The Electricity Bill (Annexure-J) shows that the connection has been taken in the name of her mother-in-law, Sumitra on 14.06.2008. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further all the three floors of Jhuggi No. B-170 has also been found to be part of one dwelling unit and DDA has already made allotment in favour of Beena W/o Mantu regarding the said Jhuggi No B-170. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. B-170 are part of one dwelling unit and DDA has already made allotment in favour of Beena W/o Mantu regarding the said Jhuggi No. B-170 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

40. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/90.G/1646 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

41. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its

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

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

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

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

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

Appeal No: 690 of 2023

Date of Institution: 30.01.2023

Date of Order: 04.05.2023

Present: Appellant/Claimant Ashish Das S/o Montu Das

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-170, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-170 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/89.1/1645 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 690 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-170 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not Verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Ashish, has been recorded before us on 28.04.2023 wherein she has stated that his grandparents, Paritosh & Sumitra, are having four sons; Santosh, Mantu, Parimal & Nirmal and two daughters Kanika & Namita. Paritosh has expired in the year 2005 and Sumitra in the year 2017. Kanika & Namita are living in their respective matrimonial homes in Madangiri Khadar, Delhi &

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Kapashera, Delhi. Parimal is married with Sheela and having two children Khushi & Prateek. Santosh is married with Manju and having three children Ashutosh, Avinash & Anis. Santosh has expired in the year 2007. Ashutosh, who is the son of Santosh, is married with Supriya. Nirmal is married with Soma and having one daughter Sneha. Mantu is married with Beena and having three sons; Ashish (Appellant/Claimant), Mohit & Manish and all three are unmarried.

8. The Appellant/Claimant has stated that his family is having two adjoining Jhuggis bearing Nos. B-164 & B-170 and both are triple storey Jhuggis having one room on each floor. Both the Jhuggis are abutting and interconnected with each other and having common pucca staircase constructed inside the room on the ground floor of both the Jhuggis bearing Nos. B-164 & B-170 and the said staircase is used for going to the first floor of both the Jhuggis. Furthermore, a common pucca staircase is going from the first floor to the second floor of both the Jhuggis. The first and the second floors of both the Jhuggis No. B-164 & B-170 are not having any independent access from the gali but for going to the first and the second floors of both the Jhuggis one has to use the pucca staircase constructed inside the room on the ground floor which are interconnected with each other.

9. The statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. B-164 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164.

Further, the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. B-170 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170.

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Accordingly, there in one dwelling unit bearing Jhuggi No. B-164 comprising of all the three floors of the said Jhuggi No. B-164 and there is another dwelling unit bearing Jhuggi No. B-170 comprising of all the three floors of the said Jhuggi No. B-170.

Jhuggi No. B-164

10. The Appellant/Claimant has stated that the Jhuggi No. B-164 is a triple storey structure and it comprises of one room on each floor and further, a pucca staircase is constructed inside the room on the ground floor for going to the first and the second floors. Manju W/o Santosh is living on the ground floor of Jhuggi No. B-164 and regarding that DDA has made allotment in favour of Manju. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Ashutosh, who is the son of Santosh & Manju, is married with Supriya and they are living on the first floor of the said Jhuggi No. B-164 and regarding that Supriya 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. 194 of 2022 before the Appellate Authority.

12. The Appellant/Claimant has stated that Soma along with her husband Nirmal and children, is living on the second floor of Jhuggi No. B-164 and regarding that she has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 409 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. B-170

13. The Appellant/Claimant has stated that Mantu along with his wife Beena and family is living on the ground floor of the Jhuggi No. B-170 and a pucca staircase is constructed inside the room on the ground floor for going to the first and the second floors. Beena Das has sought allotment from DDA against the ground floor of Jhuggi No. B-170 and regarding that DDA has made allotment in favour of Beena Das. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that Parimal along with his wife Sheela and family is living on the first floor of the said Jhuggi No. B-170 and regarding that Sheela has sought allotment from DDA but her claim has been rejected by Eligibility

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Determination Committee and aggrieved by the same, she has filed the Appeal No. 445 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

15. The Appellant/Claimant has stated that Ashish is the unmarried son of Mantu & Beena Das and he is living on the second floor of the said Jhuggi no. B-170 and regarding that Ashish has sought allotment from DDA but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 690 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered the documents Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. It is pointed out that all the four Appeals bearing Appeal No. 194 of 2022, Appeal No. 409 of 2023, Appeal No. 445 of 2023 and Appeal No. 690 of 2023 shall be decided separately on their respective individual merits.

Videos of Jhuggi No. B-164

17. DDA has furnished the survey record along with 10 video clips of Jhuggi No. B-164. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.04.2023 wherein he has stated that three videos pertain to the ground floor of the Jhuggi No. B-164 in which Manju is seen and her room & kitchen are also seen. In the other four video clips, Supriya W/o Ashutosh is seen and her room & kitchen are also seen. In the remaining three videos Soma W/o Nirmal is seen on the second floor and my room & kitchen are also seen

Videos of Jhuggi No. B-170

18. DDA has furnished the survey record along with 10 video clips of Jhuggi No. B-170. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.04.2023 wherein he has stated that in five video clips, Bina W/o Mantu is seen on the ground floor of the Jhuggi No. B-170 and her room & kitchen are also seen. In the other two videos, Sheela is seen on the first floor of the Jhuggi No. B-170 and her room & kitchen are also seen. In the remaining three videos the present Appellant/ Claimant (Ashish S/o Mantu & Beena) is seen on the second floor of the Jhuggi No. B-170 and his room is seen but the kitchen is not seen.

19. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the

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time of survey and it shows that the first and the second floors of the Jhuggis No. B-164 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-164.

20. Thereby keeping in view that all the three floors of Jhuggi No. B-164 are part of one dwelling unit and DDA has already made allotment in favour of Manju W/o Santosh regarding the said Jhuggi No. B-164. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Manju W/o Santosh, therefore, neither Soma (Appellant/Claimant in Appeal No. 409 of 2022) nor Supriya W/o Ashutosh (Appellant/Claimant in Appeal No. 194 of 2022) are entitled to seek second allotment from DDA against that very Jhuggi No. B-164.

21. In addition to that the admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-170 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another pucca staircase constructed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170.

22. Thereby keeping in view that all the three floors of Jhuggi No. B-170 are part of one dwelling unit and DDA has already made allotment in favour of Beena W/o Montu regarding the said Jhuggi No. B-170. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Beena W/o Montu, therefore neither Sheeela W/o Parimal (Appellant/Claimant in Appeal No. 445 of 2023) nor Ashish S/o Montu (Appellant/Claimant in Appeal No. 690 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No. B-170.

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23. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-170 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors constitute one dwelling unit. Thus, we have no hesitation in holding that there is one dwelling unit in Jhuggi No. B-170. Thereby taking into consideration that all the three floors are not separate & independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. B-170 and DDA has already made allotment in favour of Beena W/o Mantu regarding the said dwelling unit bearing Jhuggi No. B-170, therefore, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the second floor because it is part & parcel of single dwelling unit bearing Jhuggi No. B-170 of Beena W/o Mantu. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

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

26. 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

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

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/89.1/1645 dated 07.11.2022.

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 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.

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

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

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

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

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

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

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

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

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

30. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

31. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

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"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

32. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

33. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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

GIST OF THE POLICY

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

36. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

37. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

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38. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

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

40. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2243202 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Pass Book of BOI (Annexure-D) thereby showing rat the account was opened on 27.03.2012 and Electricity Bill (Annexure-E) thereby showing that the connection was taken by his mother Beena on 28.11.2013.

41. It is pointed out that the Voter ID Card bearing number ARE 2243202 (Annexure-A) has been issued on 16.03.2019, much after the cutoff date of 01.01.2015. Therefore the question of the name of the Appellant/Claimant appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise at all. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

42. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the second floor of the said Jhuggi No. B-170 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.

43. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. B-170 has also

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been found to be one & the same dwelling unit and DDA has already made allotment in favour of Beena (mother of Appellant/Claimant) regarding the said Jhuggi No. B-170. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-170 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. B-170 have also been found to be one & the same dwelling unit and DDA has already made allotment in favour of Beena (mother of Appellant/Claimant) regarding the said Jhuggi No. B-170 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

44. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/89.1/1645 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

45. Copy of this order be supplied to both the parties as per 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**

दिल्ली विकास प्राधिकरण

आवास एवम शहरी विकास मंत्रालय

इन-सीटूपुनर्वास योजना

डी-ब्लाक, विकास सदन,

नई दिल्ली-110023

Date → 04/07/2023

385/7/168-07

आदेश

पात्रता निर्धारण समिति ने अपने पारित आदेश संख्या 385/7/168-G/1672 दिनांक 07/11/2022 के दवारा आपको सुचित किया था कि आप दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के अंतर्गत योग्य नहीं पाये गए थे। इसलिए आपका आवेदन पत्र निरस्त कर दिया गया था।

आपने पात्रता निर्धारण समिति के आदेश के विरूद्ध अपीलीय प्राधिकरण के समक्ष अपील प्रस्तुत की थी अपीलीय प्राधिकारी ने जांच के बाद अपने आदेश दिनांक 08/05/2023 दवारा पात्रता निर्धारण समिति के आदेश संख्या 385/7/168-G/1672 दिनांक 07/11/2022 को निरस्त कर दिया है ओर आपकी पात्रता वैध पाई है। जिसकी मूल प्रति आप प्राप्त कर चुके हैं।

दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के नियमो के अनुसार अपीलीय प्राधिकारी द्वारा पारित आदेश को सक्षम प्राधिकारी के समक्ष प्रस्तुत किया गया ओर यह पाया गया की आपने पुनर्वास एवं पुनर्स्थापन नीति, 2015 की शर्तो को पूरा किया है तथा अपिलिये प्राधिकारी के आदेश को वैध पाया।

नियमानुसर आपका पात्रता भूमिहीन कैम्प परियोजना में पुनर्वास के लिए वैध है।

O/C 14/7/2023

उप निदेशक (इन-सीटूपुनर्वास योजना)

सेवा में,

श्रीमान/श्रीमती Bakash Gaurkati w/o Narayan Das

J.K NO → B-66

BHC, Kalkaji

Aadhar No.

9881496 2685

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

Appeal No: 98 of 2022

Date of Institution: 21.11.2022

Date of Order: 08.05.2023

Present: Appellant/ Claimant Prakash Garkoti S/o Narayan Das

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-66, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-66 was found to exist on the ground floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/7/168.G/1672 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 98 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 13.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-66 was found to exist on the ground floor but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal No. 98 of 2022.

7. It is pointed out at the very outset that the material placed on file as well as the survey records furnished by DDA shows that the single story Jhuggi No.B-66, Bhoomiheen Camp of the Appellant/Claimant was found to exist on the ground floor and all the requisite documents, except Voter ID Card, were found and accordingly his claim was rejected on the sole ground that his voter ID card was not found to have been verified.

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

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is entitled to claim allotment against Jhuggi bearing No. B-66 as per the policy guidelines issued by DDA.

9. The statement of the Appellant/ Claimant, Prakash Garkati, has been recorded before us on 13.04.2023, wherein he has stated that his parents, Narayan Dutt & Devki, are having two sons, Prakash & Janardan. His father Narayan Dutt has expired in the year 2008 whereas his mother Devki is living in her native village in Uttarakhand. Janardan is married with Ishwari & having two children and they are living in Badarpur Delhi. Prakash (Appellant/ Claimant) married with Geeta and having three children, Deepak Sonu and Mamta. All the children are unmarried.

10. The Appellant/Claimant has stated that his family is having a single storey Jhuggi No. B-66 in which he along with his wife Geeta and three children, Deepak Sonu & Mamta has been living and further his father Narayan Dutt had also lived with them up in the said Jhuggi till his death in the year 2008. The Appellant/ Claimant has sought allotment from DDA against the said Jhuggi No. B-66 but his claim has been wrongly rejected by Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 98 of 2022 for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with 6 video clips. This video clips were played before the Appellant/Claimant when his statement was recorded before us on 13.04.2023 wherein he has stated that in the video clips his one room & kitchen are seen and further his brother Janardan is seen standing in his Jhuggi No. B-66 regarding which he is claiming allotment from DDA and heard stating that he is getting the survey conducted on behalf of Appellant/Claimant as he has gone to village because of some death in the family. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the Jhuggi of the Appellant/Claimant is a single storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the ground floor is used by the Appellant/ Claimant & his family for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-66 in Bhoomiheen Camp is a pucca single storey structure and it was in existence much prior to the cutoff

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date of 01.01.2015 and further, the Appellant/ Claimant & his family has been using it for residential purposes.

13. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against single storey Jhuggi bearing No. B-66 as per the policy guidelines issued by DDA.

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

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

"Part-B

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

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

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either in his/her own name or in the name of any member of his/her family.

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

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

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

16. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-

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

17. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against Jhuggi bearing No. C-110 as per the policy guidelines issued by DDA.

18. The Appellant/Claimant has tendered his two Voter ID Cards bearing No. DL/03/035/243453 (Annexure-A) & bearing No. ARE 1629707 (Annexure-B), Aadhar Card (Annexure-C), Voter List of the year 2013 (Annexure-I), Voter List of the year 2014 (Annexure-J), Voter List of the year 2015 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

19. It is also pertinent to point out that the Appellant/Claimant is having two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card is bearing number DL/03/035/243453 (Annexure-A), which has been issued on 01.02.1995, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has stated that the old Voter ID Card (Annexure-A) was discontinued and therefore the Election Commission had issued the second Voter ID Card bearing number ARE 1629707 (Annexure-B). But the original Voter ID Card bearing number ARE 1629707 was lost and accordingly Election Commission has issued duplicate Voter ID Card bearing same number ARE 1629707 on 20.03.2023. The name of the Appellant/Claimant appears at Sl. No. 1223 in the Voter List of the year 2013 (Annexure-I), at Sl. No. 869 in the Voter List of the year 2014 (Annexure-J), at Sl. No. 924 in the Voter List of the year 2015 (Annexure-K) and at Sl. No. 986 in the Voter List of the year 2019 (Annexure-L). In all the voter lists (Annexure-I to Annexure-L) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1629707 (Annexure-B) and the address is mentioned to be Jhuggi No. B-66 regarding which the Appellant/Claimant has been claiming allotment from DDA. This shows that the original Voter ID Card bearing number ARE 1629707 must have been issued much prior to the year 2014 and that is why the same has been

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reflected continuously in the Voter Lists of the years 2014 to 2019, Annexure-I to Annexure-L. Furthermore, the Appellant/Claimant has used the Voter ID Card bearing number ARE 1629707 to continuously cast his vote from 2014 to 2019. Thus we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card number ARE 1629707 on the cut off date of 01.01.2015 and further his name also appears in at least on the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

20. The Appellant/ Claimant has also tendered his Driving License (Annexure-D), Pass Book of Syndicate Bank (Annexure-E) and the Electricity Bill (Annexure-F).

21. It is pointed out that the Driving License (Annexure-D) has been issued on 27.10.2018. The Pass Book of Syndicate Bank (Annexure-E) shows that the Appellant/ Claimant has opened the account on 02.08.2010, much prior to the cut-off date of 01.01.2015. Further, the Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father Narayan Dutt on 14.07.2018, much prior to the cutoff date of 01.01.2015 and Narayan Dutt was living with the family of the Appellant/ Claimant. It is pointed out that the abovementioned documents have been issued on the address of Jhuggi No. B-66 regarding which the Appellant/Claimant has been claiming allotment from DDA thereby showing that the Appellant/Claimant & his family members have been living there since long and especially much prior to the cutoff date of 01.01.2015 in the Jhuggi No. B-66 regarding which the present Appellant/Claimant has claimed allotment from DDA. This further shows that the Appellant/Claimant is having requisite documents and accordingly he fulfills the eligibility criteria as per the guidelines issued by DDA.

22. The Appellant/ Claimant has tendered his two Ration Cards (Annexure-G & Annexure-H). The old Ration Card (Annexure-G) has been issued in the name of Narayan Dutt (father of Appellant/ Claimant) on 22.06.2002 and the name of the Appellant/ Claimant has been mentioned. The new Ration Card (Annexure-H) has been issued on 17.09.2015 in the name of Geeta Devi W/o Prakash, Appellant/ Claimant and the name of the present Appellant/ Claimant is mentioned. The old Ration Card (Annexure-G) was issued on 22.06.2002 and in its place new Ration Card (Annexure-H) has been issued on 17.09.2015, therefore, the continuance of the documents can be presumed

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when new Ration Card (Annexure-H) was issued in place of old Ration Card (Annexure-G). It is also pointed out that both the Ration Cards have been issued on the address of Jhuggi No. B-66 regarding which the present Appellant/ Claimant is claiming allotment from DDA. This shows that the present Appellant/ Claimant was also having a Ration Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. B-66 regarding which he has claimed allotment from DDA and accordingly she fulfills the eligibility criteria as per the guidelines issued by DDA.

23. In the light of our detailed discussion above, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, he fulfills the eligibility criteria as per the guidelines issued by DDA.

24. The material placed on file shows that the Jhuggi No. B-66 is a single storey structure, which comprised of a room & Kitchen and it was used by the Appellant/Claimant & his family for residential purposes on the cutoff date of 01.01.2015 and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Hence, we have no hesitation in holding that the Jhuggi No. B-66 is a single storey structure and the Appellant/ Claimant & his family has been living in the said Jhuggi No. B-66 on the cutoff date of 01.01.2015 and using it for residential purposes and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

25. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present Appeal No. 98 of 2022 stands allowed, hereby, setting aside the impugned order bearing No. 385/7/168.G/1672 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant Prakash Garkoti S/o Narayan Das, in respect of the Jhuggi No. B-66, Bhoomiheen Camp.

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

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

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

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

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

Appeal No: 221 of 2023

Date of Institution: 23.11.2022

Date of Order: 08.05.2023

Present: Appellant/Claimant Shyam Singh S/o Ram Singh

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-171, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-171 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/64/110.2/1457 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 221 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 25.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-171 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Shyam Singh, has been recorded before us on 24.04.2023 wherein he has stated that his parents, Ram Singh & Surajmukhi, are

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having three sons, Sonu, Shyam Singh & Rajesh and three daughters, Monia, Sonia, & Meena. Ram Singh had expired about eight years ago. All the children are married. Sonia and Meena are living in their respective matrimonial homes in Gwalior, Madhya Pradesh. Monia is living on rent in Bhoomiheen Camp. Rajesh is married with Preeti and having five children. Sonu is married with Sunita and having two children Bir & Anandi. Shyam Singh (Appellant/Claimant) is married with Seema and having four children, Vishal, Devik, Saraswati & Kasish.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. D-171 and it comprises of one room on each floor and a pucca staircase from inside the room on the ground floor is used for going to the first floor and further one iron ladder is placed on the first floor for going to the second floor. Thus, the first and second floor are not having independent access from the gali but in order to reach the first and second floor, one has to use the pucca staircase constructed inside the room on the ground floor. Accordingly, the first and second floors are not separate and independent dwelling unit but are part & parcel of the ground floor. Further, the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. D-171 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another iron ladder placed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. D-171 for all purposes.

9. The Appellant/Claimant has stated that his mother, Suraj Mukhi, along with the family of her son Rajesh is living on the ground floor of the said Jhuggi No. D-171 and regarding that DDA has made allotment in favour of Surajmukhi. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Sonu Singh along with his wife Sunita and children is living on the first floor of the said Jhuggi No. D-171 and Sunita 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. 222 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

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11. The Appellant/Claimant has stated that he along with his wife Seema & children is living on the second floor of the Jhuggi No. D-171. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. D-171 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 221 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. It is pointed out that both the Appeals bearing Appeal No. 221 of 2023 and Appeal No. 222 of 2023 shall be decided separately on their respective individual merits.

13. DDA has furnished the survey record along with 12 video clips of Jhuggi No. D-171. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 25.04.2023 wherein he has stated that three videos pertain to the ground floor Jhuggi in which his mother Surajmukhi is seen and further her room & kitchen are also seen and further, a pucca staircase going from inside the room on the ground floor to the upper floor is also seen. In the other four videos, Sunita is seen on the first floor of the Jhuggi No. D-171 and her room & kitchen are also seen and further, an iron ladder placed inside the room of the first floor and used for going to the second floor is also seen. In the remaining five videos, Shyam Singh (Appellant/Claimant) and his wife Seema are seen on the second floor and their room & kitchen are also seen and further an iron ladder placed on the first floor and going to the second floor is also seen.

14. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. D-171 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another iron ladder placed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. D-171.

15. Thereby keeping in view that all the three floors of Jhuggi No. D-171 are part and parcel of the same dwelling unit bearing Jhuggi No. D-171 and DDA has already made

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allotment in favour of Surajmukhi W/o Ram Singh regarding the said Jhuggi No. D-171. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of D-171, therefore, neither Shyam Singh (Appellant/Claimant in Appeal No. 221 of 2023) nor Sunita (Appellant/Claimant in Appeal No. 222 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No. D-171.

16. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. D-171 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors constitute one dwelling unit. Thus, we have no hesitation in holding that Jhuggi bearing No. D-171 is a single dwelling unit. Thereby taking into consideration that all the three floors are not separate & independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-171 and DDA has already made allotment in favour of his mother Surajmukhi W/o Ram Singh regarding the said dwelling unit bearing Jhuggi No. D-171, therefore, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the second floor because it is part & parcel of single dwelling unit bearing Jhuggi No. D-171 of his mother Surajmukhi W/o Ram Singh. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

18. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, 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

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Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/110.2/1457 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

23. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first

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floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

24. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

> *"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-*
>
> *(1) words importing the masculine gender shall also be taken to include females; and*
>
> *(2) words in the singular shall include the plural, and vice versa.*

25. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

26. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition

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of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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

GIST OF THE POLICY

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

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

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second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

30. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

31. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

32. 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.

33. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1192079 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

34. It is pointed out that the Voter ID Card bearing number ARE 1192079 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 691 in the Voter list of the year 2014 (Annexure-I) and at Sl. No. 879 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and 2019 (prior to 01-01-2015) & also in the year of survey.

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35. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the second floor of the said Jhuggi No. D-171 regarding which he is claiming allotment from DDA. He has tendered joint Ration Card (Annexure-H) issued on 27.07.1998 in favour of his father Ram Singh and having the name of the Appellant/ Claimant. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. D-171 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.

36. The Appellant/Claimant has tendered the Driving License (Annexure-D), Voter ID Card No. CXY 1100320 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Seema as well as Electricity Bill (Annexure-G).

37. It is pointed out that the Driving License (Annexure-D) has been issued on 04.08.2001. The Voter ID Card No. CXY 1100320 (Annexure-E) has been issued on 16.03.2002. The Electricity Bill (Annexure-G) shows that the connection has been taken in the name of his father Ram Singh on 05.06.2008. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. D-171 has also been found to be one & the same dwelling unit and DDA has already made allotment in favour of Surajmukhi (mother of Appellant/Claimant) regarding the said Jhuggi No. D-171. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or

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interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. D-171 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. D-171 have also been found to be one & the same dwelling unit and DDA has already made allotment in favour of Surajmukhi (mother of Appellant/Claimant) regarding the said Jhuggi No. D-171 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

39. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/110.2/1457 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 222 of 2023

Date of Institution: 23.11.2022

Date of Order: 08.05.2023

Present: Appellant/Claimant Sunita W/o Sonu D/o Dhani Ram

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-171, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-171 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/64/110.2/1459 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 222 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 25.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-171 was found to exist on the upper floor but she had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Sunita, has been recorded before us on 24.04.2023 wherein she has stated that her in-laws, Ram Singh & Surajmukhi, are

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having three sons, Sonu, Shyam Singh & Rajesh and three daughters, Monia, Sonia, & Meena. Ram Singh had expired about eight years ago. All the children are married. Sonia and Meena are living in their respective matrimonial homes in Gwalior, Madhya Pradesh. Monia is living on rent in Bhoomiheen Camp. Rajesh is married with Preeti and having five children. Shyam Singh is married with Seema and having four children, Vishal, Devik, Saraswati & Kasish. Sonu is married with Sunita (Appellant/Claimant) and having two children Bir & Anandi.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. D-171 and it comprises of one room on each floor and a pucca staircase from inside the room on the ground floor is used for going to the first floor and further one iron ladder is placed on the first floor for going to the second floor. Thus, the first and second floor are not having independent access from the gali but in order to reach the first and second floor, one has to use the pucca staircase constructed inside the room on the ground floor. Accordingly, the first and second floors are not separate and independent dwelling unit but are part & parcel of the ground floor. Further, the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. D-171 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another iron ladder placed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. D-171 for all purposes.

9. The Appellant/Claimant has stated that her mother-in-law, Suraj Mukhi, along with the family of her son Rajesh is living on the ground floor of the said Jhuggi No. D-171 and regarding that DDA has made allotment in favour of Surajmukhi. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Shyam Singh along with his wife Seema and children is living on the second floor of the said Jhuggi No. D-171 and Shyam Singh 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. 221 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

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11. The Appellant/Claimant has stated that she along with her husband Sonu & children is living on the first floor of the Jhuggi No. D-171. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. D-171 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 222 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-N, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. It is pointed out that both the Appeals bearing Appeal No. 221 of 2023 and Appeal No. 222 of 2023 shall be decided separately on their respective individual merits.

13. DDA has furnished the survey record along with 12 video clips of Jhuggi No. D-171. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.04.2023 wherein he has stated that three videos pertain to the ground floor Jhuggi in which his mother Surajmukhi is seen and further her room & kitchen are also seen and further, a pucca staircase going from inside the room on the ground floor to the upper floor is also seen. In the other 4 videos, Sunita (Appellant/Claimant) is seen on the first floor of the Jhuggi No. D-171 and her room & kitchen are also seen and further, an iron ladder placed inside the room of the first floor and used for going to the second floor is also seen. In the remaining five videos, Shyam Singh and his wife Seema are seen on the second floor and their room & kitchen are also seen and further an iron ladder placed on the first floor and going to the second floor is also seen.

14. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. D-171 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor and thereafter in order to reach the second floor, one has to use another iron ladder placed inside the room on the first floor. Therefore, all the three floors are not separate and independent dwelling units but all the three floors constitute one dwelling unit bearing Jhuggi No. D-171.

15. Thereby keeping in view that all the three floors of Jhuggi No. D-171 are part and parcel of the same dwelling unit bearing Jhuggi No. D-171 and DDA has already made

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allotment in favour of Surajmukhi W/o Ram Singh regarding the said Jhuggi No. D-171. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of D-171, therefore, neither Shyam Singh (Appellant/Claimant in Appeal No. 221 of 2023) nor Sunita (Appellant/Claimant in Appeal No. 222 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No. D-171.

16. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. D-171 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and all the three floors constitute one dwelling unit. Thus, we have no hesitation in holding that Jhuggi bearing No. D-171 is a single dwelling unit. Thereby taking into consideration that all the three floors are not separate & independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-171 and DDA has already made allotment in favour of his mother Surajmukhi W/o Ram Singh regarding the said dwelling unit bearing Jhuggi No. D-171, therefore, two allotments are not permissible against one dwelling unit as per the guidelines issued by DDA. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. D-171 of his mother Surajmukhi W/o Ram Singh. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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

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Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015 Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/110.2/1459 dated 07.11.2022.

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

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

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case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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25. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & 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 first floor as per the policy guidelines issued by DDA.

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

27. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1192095 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2015 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

28. It is pointed out that the Voter ID Card bearing number ARE 1192095 (Annexure-A) has been issued on 14.10.2013, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 763 in the Voter list of the year 2015 (Annexure-M) and at Sl. No. 880 in the Voter List of the year 2019 (Annexure-N). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 and 2019 (prior to 01-01-2015) & also in the year of survey.

29. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. D-171 regarding which she is claiming allotment from DDA. She has tendered joint Ration Card (Annexure-L) issued on 27.07.1998 in favour of his father-in-law Ram Singh and having the name of the husband of the Appellant/ Claimant mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-177 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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30. The Appellant/Claimant has tendered the Driving License (Annexure-D), Passport (Annexure-E), Pass Book of PNB (Annexure-F), Electricity Bill (Annexure-G) as well as the Voter ID Card ((Annexure-H), Aadhar Card (Annexure-I), Pan Card (Annexure-J) and Driving License (Annexure-K).

31. It is pointed out that the Driving License (Annexure-D) has been issued on 26.02.2014 and the Passport (Annexure-E) has been issued on 17.10.2019. The Pass Book of PNB (Annexure-F) shows that the account was opened on 07.11.2013. The Electricity Bill (Annexure-G) shows that the connection has been taken in the name of her father-in-law, Ram Singh on 05.06.2008. The Voter ID Card No. ARE 1416072 (Annexure-H) has been issued on 22.02.2009. The Driving License (Annexure-K) has been issued on 09.01.2013. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. D-171 has also been found to be one & the same dwelling unit and DDA has already made allotment in favour of Surajmukhi (mother-in-law of Appellant/Claimant) regarding the said Jhuggi No. D-171. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. D-171 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. D-171 have also been found to be one & the same dwelling unit and DDA has already made allotment in

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favour of Surajmukhi (mother-in-law of Appellant/Claimant) regarding the said Jhuggi No. D-171 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/110.2/1459 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 328 of 2023

Date of Institution: 28.11.2022

Date of Order: 08.05.2023

Present: Appellant/ Claimant Khem Kant S/o Rajender Kumar

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-198, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-198 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/24.1/1206 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 328 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-198 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not Verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Khem Kant, has been recorded before us on 27.04.2023 wherein he has stated that his parents, Rajender & Indrawati, are having three sons Brijesh, Khemkant & Chanderkant. All are married. Chandrakant is married with Babita. Brijesh is married with Chanda and having two children Khushi & Alina. Khem Kant (Appellant/Claimant) is married with Indu and having one daughter Shivanya.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. B-198 and it comprises of one room on the ground floor, two rooms on the first floor and one room on the second floor and the Jhuggi is also having a pucca staircase going from outside the gali for going to the upper floors. His parents, Rajender & Indrawati, are living on the ground floor of Jhuggi No. B-198 and regarding that DDA has made allotment in favour of my mother Indrawati. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brother Chandrakant along with his wife Babita is living on the second floor of Jhuggi No. B-198 but he has not sought allotment from DDA. Furthermore, another brother Brijesh along with his wife Chanda and children is living in one of the rooms on the first floor of the Jhuggi No. B-198 and he has not sought allotment from DDA against his Jhuggi on the first floor. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Indu & daughter Shivanya, is living in the second room on the first floor of the said Jhuggi No. B-198 and has sought allotment from DDA and aggrieved by the same, he has filed the present Appeal No. 328 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. B-198. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 27.04.2023 wherein he has stated that six videos pertain to ground floor of the Jhuggi No. B-198 in which his sister-in-law

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Babita W/o Chandrakant is seen and room & kitchen of his parents is also seen. Further, a pucca staircase going from the ground floor to the upper floors is also seen. In the next two videos, Babita is seen in the room on the first floor of the Appellant/Claimant and his room & kitchen are also seen. The Appellant/Claimant has stated that Babita W/o Chandrakant had got both the surveys conducted on behalf of his mother as well as on his wife because at the time of the survey, the entire family had gone to their native village in Azamgarh, Uttar Pradesh to attend the last rites of his grandmother. The video of second floor was not prepared as there is no claimant for the second floor. But there is nothing to disbelieve the statement of the that the Jhuggi No. B-198 was a triple storey Jhuggi. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. A-86 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-86 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a

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separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/6/24.1/1206 dated 07.11.2022.

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

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

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

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

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

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

17. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued

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

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

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

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appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1148469 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2012 (Annexure-K).

23. It is pointed out that the Voter ID Card No. ARE 1148469 has been issued on 06.08.2009, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 620 in the Voter List of 2012 (Annexure-K). But the Appellant/Claimant has not tendered any other Voter Lists of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey to show that he had used the Voter ID Card No. ARE 1148469 (Annexure-A) to cast his vote in these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 but no material is placed on file to show that his name appears in the Voter Lists of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-198 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the his joint Ration Card (Annexure-L), which has been issued on 20.09.2014, in the name of his mother, Inderawati, and the names of the family members, including that of the present Appellant/Claimant, has been recorded. The fact remains that the Appellant/Claimant was not having a separate Ration Card on

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the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-198 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Passport (Annexure-D) issued on 05.04.2013, Scheduled Caste Certificate (Annexure-E) issued on 27.09.2005, Birth Certificate (Annexure-F) dated 02.06.2004, Voter ID Card No. ARE 2563286 (Annexure-G) of his wife Indu issued on 14.12.2021, Aadhar Card (Annex-H) of Indu, Aadhar Card (Annexure-I) of his daughter Shivanya and Electricity Bill (Annexure-J) showing that the connection was taken on 17.06.2008 by his father Rajender. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 and also in the year of survey.

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27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/6/24.1/1206 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 8/5/2023	**(Satish Ahlawat)** 8/5/2023	**(Rachna Tiwary)** 8/5/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 125 of 2022

Date of Institution: 22.11.2022

Date of Order: 15.05.2023

Present: Appellant/Claimant Munni Devi W/o Ram Avtar D/o Gundev Jha

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-34, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-34 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/62/66.1/1336 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 125 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 12.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-34 was found to exist on the upper floor but she had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Munni Devi, has been recorded before us on 12.05.2023 wherein she has stated that her parents, Gundev Jha & Sushila, are having

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two sons, Raj Kumar & Natwar and two daughters, Munni & Pinky. All the children except Natwar are married. Natwar is unmarried and he is living in his native village in District Madhuban, Bihar. Pinky is married with the Kamlesh and she is also living in her matrimonial home in Bihar. Rajkumar is married to Chandni and having three children Piyush, Priya and Priyanshi. Munni (Appellant/Claimant) is married with Ram Avtar and having five daughters Soni, Subhadra, Sumiti, Nidhi & lucky. Munni along with four daughters Soni, Subhadra, Nidhi & lucky is living in her native village in District Madhubani, Bihar whereas her husband Ram Avtar along with one of the daughter Sumiti is living in Bhoomiheen Camp with Gundev.

8. The admission of the Appellant/Claimant is a clincher piece of evidence as she has specifically stated that she along with four daughters Soni, Subhadra, Nidhi & lucky is living in her native village in District Madhubani, Bihar whereas her husband Ram Avtar along with one of the daughter Sumiti is living in Bhoomiheen Camp with Gundev. However, her husband Ram Avtar has not sought allotment from DDA. But the allotment has been sought by the Appellant/Claimant in spite of the fact that she is admittedly not living in Bhoomiheen Camp but with her four daughters she is living in Bihar. Therefore, the Appellant/Claimant is not eligible to seek allotment from DDA.

9. The Appellant/Claimant has stated that her parents, Gundev Jha & Sushila, are having a triple storey Jhuggi No. A-34 and it comprises of three rooms on each floor and a pucca staircase from inside the room on the ground floor is used for going to the first floor and the second floor. One of the room on the ground floor is used as shop for running grocery shop by her father Gundev and the second room is used by her parents, Gundev Jha & Sushila, for living purposes. Whereas Raj Kumar uses the third room on ground floor for residential purposes by his family.

10. The Appellant/Claimant has stated that two rooms on the first floor and all the three rooms on the second floor have been rented out and one of the rooms on the first floor is used by her husband Ram Avtar & daughter Sumiti for their residential purposes.

11. Thus, the statement of the Appellant/Claimant shows that the first and second floor are not having independent access from the gali but in order to reach the first and second floor, one has to use the pucca staircase constructed inside the room on the ground floor. Accordingly, the first and second floors are not separate and independent

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dwelling unit but are part & parcel of the dwelling unit of Gundev on the ground floor bearing Jhuggi No. A-34 for all purposes.

12. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. A-34 are not having any independent access from the gali but in order to reach the first & second floors, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-34 of Gundev for all purposes. Therefore, the Appellant/Claimant is not eligible to seek allotment from DDA against the first floor of the Jhuggi No. A-34, which is part of the dwelling unit of her father, Gundev.

13. The Appellant/Claimant has stated that there are three rooms on the ground floor of the Jhuggi No. A-34 and one of the room on the ground floor is used as shop for running grocery shop by her father Gundev and the second room is used by her parents, Gundev Jha & Sushila, for living purposes and regarding that DDA has made allotment in favour of her father Gundev. These facts are not disputed by DDA.

14. The Appellant/Claimant has stated that Raj Kumar along with his wife Chandni & three children Piyush, Priya and Priyanshi is living in the third room on the ground floor of the said Jhuggi No. A-34 and regarding that DDA has made allotment in favour of Chandni. These facts are not disputed by DDA.

15. The Appellant/Claimant has stated that she is married with Ram Avtar and having five daughters Soni, Subhadra, Sumiti, Nidhi & lucky. Munni along with four daughters Soni, Subhadra, Nidhi & lucky is living in her native village in District Madhubani, Bihar whereas her husband Ram Avtar along with one of the daughter Sumiti is living in one of the room on the first floor of the said Jhuggi No. A-34, Bhoomiheen Camp of Gundev. The Appellant/Claimant has stated that at the time of survey in Bhoomiheen Camp she was called by her to Delhi to get the survey conducted. The Appellant/Claimant has sought allotment from DDA against one of the rooms on the first floor of the said Jhuggi No. A-34 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 125 of 2022 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.

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16. DDA has furnished the survey record along with 10 video clips of Jhuggi No. A-34. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 12.05.2023 wherein she has stated that 4 videos pertain to the ground floor Jhuggi in which her father Gundev is seen and further his shop as well as the room & kitchen on the ground floor are seen. In 3 video clips Chandni is seen and her room & kitchen on the ground floor are also seen. In the next 3 video clips her husband Ram Avtar is seen and her room & kitchen on the first floor are also seen. The Appellant/Claimant has stated that she was not present at the time of survey. Had the Appellant/Claimant living in Bhoomiheen Camp then she would have certainly got the survey conducted in respect of first floor of the Jhuggi No. A-34 regarding which she is claiming allotment from DDA. This create dent in the story put forward by the Appellant/Claimant.

17. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. A-34 are not having any independent access from the gali but in order to reach the first and the second floors one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-34 of Gundev for all purposes.

18. Furthermore, the Appellant/Claimant has also specifically admitted that she along with four daughters Soni, Subhadra, Nidhi & lucky is living in her native village in District Madhubani, Bihar whereas her husband Ram Avtar along with one of the daughter Sumiti is living in one of the room on the first floor of the said Jhuggi No. A-34, Bhoomiheen Camp of Gundev. Her father Gundev had called her to Delhi to get the survey conducted inspite of the fact that she has not been living in Bhoomiheen Camp. Furthermore, the survey was not been conducted by the Appellant/Claimant but instead it was got conducted by her husband Ram Avtar. Admittedly, Ram Avtar had not submitted representation for claiming allotment from DDA but instead his wife Munni (Appellant/Claimant) had sought allotment from DDA against the first floor of the said Jhuggi No. A-34, Bhoomiheen Camp despite the fact that she was not living there.

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19. Thereby keeping in view that the first and the second floors of Jhuggi No. A-34 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-34 of Gundev for all purposes and DDA has already made allotment in favour of her father, Gundev, regarding the said Jhuggi No. A-34. Accordingly, we have no hesitation in holding that two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Gundev, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. A-34. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. A-34 of her father, Gundev. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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

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

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is no illegality in the impugned rejection order bearing No. 385/62/66.1/1336 dated 07.11.2022.

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

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

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

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

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

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

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

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

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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."

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

GIST OF THE POLICY

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

28. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & 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 first floor as per the policy guidelines issued by DDA.

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

30. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B) and Aadhar Card (Annexure-C).

31. It is pointed out that the first Voter ID Card bearing number DL/03/035/240257 (Annexure-A) has been issued on 28.01.1995, much prior to the cutoff date of 01.01.2015. The second Voter ID Card bearing number ARE 2605954 (Annexure-B) has been issued on 10.10.2022, much after the cutoff date of 01.01.2015. It is pertinent to point that the Appellant/Claimant has not tendered the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey to show that she had ever used any of her two Voter ID Cards (Annexure-A & Annexure-B) to cast vote. The Appellant/Claimant has categorically admitted that she had cast her vote in the election of 2022 and prior to that she had never used her franchise right. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 but her name does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey because she had never cast her vote as she admittedly was not living in Bhoomiheen Camp during all these years and more specifically on the cut off date of 01.01.2015. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) & Voter ID Card No. ARE 1132430 (Annexure-E) of her husband Ram Avtar as well as the Pass Book of Canara Bank (Annexure-F), Electricity Bill (Annexure-G) and Ration card (Annexure-H).

33. It is pointed out that the Voter ID Card No. ARE 1132430 (Annexure-E) has been issued on 27.10.2008 and the Pass Book of Canara Bank (Annexure-F) shows that the account was opened on 19.09.2014. The Electricity Bill (Annexure-G) shows that the connection has been taken in the name of her father Gundev on 21.06.2008. The Appellant/ Claimant has admitted that she is having a separate Ration card (Annexure-H) issued on 21.11.2014 on the address of the said Jhuggi No. A-34 regarding which she is claiming allotment from DDA. However, this document is of no help to the

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Appellant/ Claimant because she admittedly is living in her native village in District Madhubani and she was not living in Bhoomiheen Camp and more specifically on the cut off date of 01.01.2015 she was not living here. However, with the help of her father Gundev and husband Ram Avtar she might have succeeded in getting the documents issued from various departments so that the same can be used to claim a allotment from DDA on the basis of wrong claim. 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 first and the second floors of Jhuggi No. A-34 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-34 of Gundev for all purposes and DDA has already made allotment in favour of her father, Gundev, regarding the said Jhuggi No. A-34. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Gundev, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. A-34. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

34. The material placed on file shows that the first and the second floors of Jhuggi No. A-34 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-34 of Gundev for all purposes and DDA has already made allotment in favour of her father, Gundev, regarding the said Jhuggi No. A-34. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the first and the second floors of Jhuggi No. A-34 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-34 of Gundev for all purposes and DDA has already made allotment in favour of her father, Gundev, regarding the said Jhuggi No. A-34. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Gundev, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. A-34. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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35. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/62/66.1/1336 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 361 of 2023

Date of Institution: 29.11.2022

Date of Order: 15.05.2023

Present: Appellant/Claimant Umesh Roy S/o Suresh

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-265, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-265 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/18/25.1/761 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 361 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-265 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Umesh Roy, has been recorded before us on 03.05.2023 wherein he has stated that his parents, Suresh & Gauri, are having three

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sons, Umesh, Rajesh & Rakesh and three daughters, Renu, Guddi & Asha. Gauri had expired in the year 2015. Only Rajesh & Asha are married whereas all the remaining children are unmarried. Asha is married with Saurabh and she is living in her matrimonial home in Govind Puri, Delhi. Rajesh (Appellant/Claimant) is married with Kiran and having one daughter, Mishti.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-265 and it comprises of two rooms on each floor and a pucca staircase from inside one of the room on the ground floor is used for going to both the rooms on the first floor. Thus, the first floor is not having independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside one of the room on the ground floor. Therefore, there are two dwelling units. One of the rooms on the ground floor is an independent unit. Whereas the second room on the ground floor and two room on its first floor are not separate and independent dwelling unit but they are part & parcel of the ground floor and constitute the second dwelling unit. Therefore, the first floor is not separate and independent dwelling unit but it is part & parcel of one of the room from where the first floor is reachable through the pucca staircase and accordingly they constitute one dwelling unit bearing Jhuggi No. C-265 for all purposes.

9. The Appellant/Claimant has stated that both of his unmarried sisters, Renu & Guddi, are living in the first room on the ground floor of the said Jhuggi No. C-265 and regarding that DDA has made allotment in favour of Renu. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his father Suresh is living in the second room on the ground floor of the said Jhuggi No. C-265 and a pucca staircase from inside that room on the ground floor of his father Suresh is used for going to both the rooms on the first floor used by him and Rajesh. DDA has made allotment in favour of his father, Suresh, regarding the second room on the ground floor of the said Jhuggi No. C-265. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Rajesh along with his family is living in the first room on the first floor of the said Jhuggi No. C-265 but his claim DDA but his claim has been rejected by the Eligibility Determination Committee and

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aggrieved by the same, he has filed the Appeal No. 360 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he is unmarried and he is living in the second room on the first floor of the said Jhuggi No. C-265. The Appellant/Claimant has sought allotment from DDA against the second room on the first floor of the said Jhuggi No. C-265 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 361 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in her favour.

13. It is pointed out that both the Appeals bearing Appeal No. 360 of 2023 and Appeal No. 361 of 2023 shall be decided separately on their respective individual merits.

14. DDA has furnished the survey record along with 4 video clips of Jhuggi No. C-265. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.05.2023 wherein he has stated that the first video pertain to the first room on the ground floor in which his sister Renu is seen and further her room & kitchen are also seen. The second video pertain to the second room on the ground floor in which his father Suresh is seen and further his room & kitchen are also seen and further, a pucca staircase going from inside his room on the ground floor to the upper floor is also seen. In the third video he (Umesh-Appellant/Claimant) is seen in the first room on the first floor of the Jhuggi No. C-265 and his room & kitchen are also seen. In the fourth video Rajesh is seen in the second room on the first floor and his room & kitchen are also seen.

15. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first floor of the Jhuggis No. C-265 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor of Suresh. Therefore, the first room on the ground floor of Renu is a separate dwelling unit bearing Jhuggi No. C-265 and the second room on the ground floor of Suresh along with both the rooms on the first floor constitute another dwelling unit, which happens to be bearing the same number i.e., Jhuggi No. C-265 because the first floor is not having independent access from the gali but in order to reach both the rooms of Umesh

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& Rajesh on the first floor, one has to use the pucca staircase constructed inside the room on the ground floor of Suresh Therefore there are two dwelling units. The first rooms in which Renu is living is an independent unit whereas the second room on the ground floor and two rooms on its first floor is not a separate and independent dwelling unit but they are part & parcel of the ground floor in which Suresh is living. Therefore, the first floor is not separate and independent dwelling unit but it is part & parcel of one of the room of Suresh from where the first floor is reachable through the pucca staircase and accordingly they constitute one dwelling unit bearing Jhuggi No. C-265 for all purposes.

16. We have no hesitation in holding that there are two dwelling units. The first room on the ground floor of Renu bearing Jhuggi No. C-265 is a separate dwelling unit and regarding that DDA has made allotment in favour of Renu. In addition to that the second room on the ground floor of Suresh along with both the rooms on the first floor constitute one dwelling unit, which also happens to be bearing Jhuggi No. C-265 and regarding that DDA has made allotment in favour of Suresh. In the present appeal we are concerned with the rooms on the first floor having access from the room of Suresh. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Suresh against the single dwelling unit bearing Jhuggi No. C-265, therefore, neither Rajesh Roy (Appellant/Claimant in Appeal No. 360 of 2023) nor Umesh (Appellant/Claimant in Appeal No. 361 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No C-265. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. C-265 of his father Suresh. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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18. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of 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 the first floor the dweller is required to have a separate Ration Card on the cut- off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with his father Suresh. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015 even if he possesses a Voter ID Card on the cut- off date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/25.1/761 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

25. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

26. 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.

27. The Appellant/Claimant has tendered his Voter ID Card bearing number CXY 1522606 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

28. It is pointed out that the Voter ID Card bearing number CXY 1522606 (Annexure-A) has been issued on 27.11.2005, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 126 in the Voter list of the year 2014 (Annexure-I), and at Sl. No. 163 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and 2019 (prior to 01-01-2015) & also in the year of survey.

29. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the second floor of the said Jhuggi No. C-265 regarding which he is

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claiming allotment from DDA. He has tendered joint Ration Card (Annexure-H) issued in favour of his father Suresh and having the name of the Appellant/ Claimant issued on 22.06.2002. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-265 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D), Pan Card (Annexure-E) of the his wife Guddi as well as the Pass Book of UBI (Annexure-F) and Electricity Bill (Annexure-G).

31. It is pointed out that the Pass Book of of UBI (Annexure-F) shows that the account was opened on 08.04.2022. The Electricity Bill (Annexure-G) shows that the connection has been taken in the name of his father Suresh on 24.05.2008. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor and furthermore it has been found that the Jhuggi on the first floor regarding which the Appellant/Claimant has sought allotment from DDA has not been found to be independent dwelling unit but it has been found to be part & parcel of the dwelling unit of his father, Suresh, which also happens to be bearing Jhuggi No. C-265 and regarding that DDA has made allotment in favour of Suresh. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Suresh against the single dwelling unit bearing Jhuggi No. C-265, therefore, neither Rajesh Roy (Appellant/Claimant in Appeal No. 360 of 2023) nor Umesh (Appellant/Claimant in Appeal No. 361 of 2023) are entitled to seek second allotment

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from DDA against that very Jhuggi No C-265. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. C-265 of his father Suresh. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further the Jhuggi on the first floor regarding which the Appellant/Claimant is claiming allotment from DDA has also been found to be part of dwelling unit of Suresh and DDA has already made allotment in favour of Suresh (father of Appellant/Claimant) regarding the said Jhuggi No. C-265 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/25.1/761 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 360 of 2023

Date of Institution: 29.11.2022

Date of Order: 15.05.2023

Present: Appellant/Claimant Rajesh Roy S/o Suresh

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-265, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-265 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/18/24.1/760 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 360 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-265 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Rajesh Roy, has been recorded before us on 03.05.2023 wherein he has stated that his parents, Suresh & Gauri, are having three

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sons, Umesh, Rajesh & Rakesh and three daughters, Renu, Guddi & Asha. Gauri had expired in the year 2015. Only Rajesh & Asha are married whereas all the remaining children are unmarried. Asha is married with Saurabh and she is living in her matrimonial home in Govind Puri, Delhi. Rajesh (Appellant/Claimant) is married with Kiran and having one daughter, Mishti.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-265 and it comprises of two rooms on each floor and a pucca staircase from inside one of the room on the ground floor is used for going to both the rooms on the first floor. Thus, the first floor is not having independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside one of the room on the ground floor. Therefore, there are two dwelling units. One of the rooms on the ground floor is an independent unit whereas the second room on the ground floor and two room on its first floor are not separate and independent dwelling unit but they are part & parcel of the ground floor and constitute the second dwelling unit. Therefore, the first floor is not separate and independent dwelling unit but it is part & parcel of one of the room from where the first floor is reachable through the pucca staircase and accordingly they constitute one dwelling unit bearing Jhuggi No. C-265 for all purposes.

9. The Appellant/Claimant has stated that both of his unmarried sisters, Renu & Guddi, are living in the first room on the ground floor of the said Jhuggi No. C-265 and regarding that DDA has made allotment in favour of Renu. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his father Suresh is living in the second room on the ground floor of the said Jhuggi No. C-265 and a pucca staircase from inside that room on the ground floor of his father Suresh is used for going to both the rooms on the first floor used by him and Rajesh. DDA has made allotment in favour of his father, Suresh, regarding the second room on the ground floor of the said Jhuggi No. C-265. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his unmarried brother Umesh is living in the first room on the first floor of the said Jhuggi No. C-265 but his claim DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the

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same, he has filed the Appeal No. 361 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Kiran & daughter, Mishti, is living in the second room on the first floor of the said Jhuggi No. C-265. The Appellant/Claimant has sought allotment from DDA against the second room on the first floor of the said Jhuggi No. C-265 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 360 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in her favour.

13. It is pointed out that both the Appeals bearing Appeal No. 360 of 2023 and Appeal No. 361 of 2023 shall be decided separately on their respective individual merits.

14. DDA has furnished the survey record along with 4 video clips of Jhuggi No. C-265. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.05.2023 wherein he has stated that the first video pertain to the first room on the ground floor in which his sister Renu is seen and further her room & kitchen are also seen. The second video pertain to the second room on the ground floor in which his father Suresh is seen and further his room & kitchen are also seen and further, a pucca staircase going from inside his room on the ground floor to the upper floor is also seen. In the third video, Umesh, is seen in the first room on the first floor of the Jhuggi No. C-265 and his room & kitchen are also seen. In the fourth video he (Rajesh Roy-Appellant/Claimant) is seen in the second room on the first floor and his room & kitchen are also seen.

15. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first floor of the Jhuggis No. C-265 are not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor of Suresh. Therefore, the first room on the ground floor of Renu is a separate dwelling unit bearing Jhuggi No. C-265 and the second room on the ground floor of Suresh along with both the rooms on the first floor constitute another dwelling unit, which happens to be bearing the same number i.e., Jhuggi No. C-265 because the first floor is not

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having independent access from the gali but in order to reach both the rooms of Umesh & Rajesh on the first floor, one has to use the pucca staircase constructed inside the room on the ground floor of Suresh Therefore there are two dwelling units. The first rooms in which Renu is living is an independent unit whereas the second room on the ground floor and two rooms on its first floor is not separate and independent dwelling unit but they are part & parcel of the ground floor in which Suresh is living. Therefore, the first floor is not separate and independent dwelling unit but it is part & parcel of one of the room of Suresh from where the first floor is reachable through the pucca staircase and accordingly they constitute one dwelling unit bearing Jhuggi No. C-265 for all purposes.

16. We have no hesitation in holding that there are two dwelling units. The first room on the ground floor of Renu bearing Jhuggi No. C-265 is a separate dwelling unit and regarding that DDA has made allotment in favour of Renu. In addition to that the second room on the ground floor of Suresh along with both the rooms on the first floor constitute one dwelling unit, which also happens to be bearing Jhuggi No. C-265 and regarding that DDA has made allotment in favour of Suresh. In the present appeal we are concerned with the rooms on the first floor having access from the room of Suresh. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Suresh against the single dwelling unit bearing Jhuggi No. C-265, therefore, neither Rajesh Roy (Appellant/Claimant in Appeal No. 360 of 2023) nor Umesh (Appellant/Claimant in Appeal No. 361 of 2023) are entitled to seek second allotment from DDA against that very Jhuggi No C-265. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. C-265 of his father Suresh. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to

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

18. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, 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 the first floor the dweller is required to have a separate Ration Card on the cut- off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is having a joint Ration Card with his father Suresh. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015 even if he possesses a Voter ID Card on the cut- off date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/24.1/760 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

25. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

26. 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.

27. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 1181916 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-I) And Voter List of the year 2019 (Annexure-J).

28. It is pointed out that the Voter ID Card bearing number ARE 1181916 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 120 in the Voter list of the year 2012 (Annexure-I) and at Sl. No. 164 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 and 2019 (prior to 01-01-2015) & also in the year of survey.

29. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the second floor of the said Jhuggi No. C-265 regarding which he is

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claiming allotment from DDA. He has tendered joint Ration Card (Annexure-H) issued in favour of his father Suresh and having the name of the Appellant/ Claimant issued on 22.06.2002. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-265 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D), Pan Card (Annexure-E) of his wife Kiran as well as the Pass Book of PNB (Annexure-F) and Electricity Bill (Annexure-G).

31. It is pointed out that the Pass Book of of PNB (Annexure-F) shows that the account was opened on 30.03.2022. The Electricity Bill (Annexure-G) shows that the connection has been taken in the name of his father Suresh on 24.05.2008. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor and furthermore it has been found that the Jhuggi on the first floor regarding which the Appellant/Claimant has sought allotment from DDA has not been found to be independent dwelling unit but it has been found to be part & parcel of the dwelling unit of his father, Suresh, which also happens to be bearing Jhuggi No. C-265 and regarding that DDA has made allotment in favour of Suresh. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Suresh against the single dwelling unit bearing Jhuggi No. C-265, therefore, neither Rajesh Roy (Appellant/Claimant in Appeal No. 360 of 2023) nor Umesh (Appellant/Claimant in Appeal No. 361 of 2023) are entitled to seek second allotment

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from DDA against that very Jhuggi No C-265. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. C-265 of his father Suresh. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further the Jhuggi on the first floor regarding which the Appellant/Claimant is claiming allotment from DDA has also been found to be part of dwelling unit of Suresh and DDA has already made allotment in favour of Suresh (father of Appellant/Claimant) regarding the said Jhuggi No. C-265 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/24.1/760 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 85 of 2022

Date of Institution: 21.11.2022

Date of Order: 15.05.2023

Present: Appellant/ Claimant Chandan S/o Mangal Ram

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-171, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-171 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/86.G/1496 dated 07.11.2022 to the present

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Appellant/Claimant. Aggrieved by the same, the present Appeal No. 85 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 12.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-171 was found to exist but he had failed to submit required documents, i.e., valid voter ID Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Minor as on 01.01.2015"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant has been recorded before us on 12.05.2023, wherein he has stated that his parents, Mangal & Poonam, are having three sons, namely, Chandan (Appellant/Claimant), Kundan & Rupa. Mangal had died on 10.10.2021 and his death certificate is Annexure-D. All the three children are unmarried.

8. The Appellant/ Claimant has stated that his family is having two adjoining single storey

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Jhuggis in the Bhoomiheen Camp which are bearing same number, i.e., Jhuggi No. A-171. The Appellant/Claimant has also stated that regarding the Jhuggi No. A-171 DDA has made allotment in favour of his aunt Devanti W/o Chander Bhan, who is elder brother of his father, Mangal. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his mother, Poonam and both the brothers is living in another adjoining Jhuggi No A-171. The Appellant/Claimant has sought allotment in respect of the said Jhuggi but his claim has been wrongly rejected by DDA and aggrieved by the same he has filed the present Appeal for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make alternative allotment in his favour as per the policy guidelines issued by DDA.

10. The Appellant/Claimant has categorically admitted that his date of birth is 29.11.2001. The Appellant/Claimant has stated that in his Voter ID Card (Annexure-A) & Pan Card (Annexure-C) his date of birth is correctly recorded to be 29.11.2001. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that he was minor on the cut off date of 01.01.2015. The material placed on file shows that the Appellant/Claimant was living jointly with her parents and was not having any independent source of income on the cut off date of 01.01.2015. It is a matter of common observation that no prudent parents would allow their minor son to live separately & independently especially when he is not having independent source of income to support him. This accordingly shows that the Appellant/Claimant was not living separately & independently in Jhuggi No. A-171 but he was living jointly with her parents on the cutoff date of 01.01.2015.

11. DDA has furnished the survey records along with 6 video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 12.05.2023 wherein he has stated that in 3 video clips his aunt Devanti is seen and further her room & kitchen are also seen. In the next 3 video clips Chandan (Appellant/Claimant) and his mother Poonam is seen. Further a room & a kitchen is also seen in these videos. The Appellant/Claimant further stated that he wanted his mother to get the survey done in her name because he very well knew that he was a minor at that time and further his mother is having all the requisite documents but she was not available at the time of the survey as she had gone to her native village at that time. The admission of the Appellant/Claimant is a

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clincher piece of evidence thereby showing that he very well knew that at the time of filing representation for seeking allotment and also at the time of survey he was not eligible for allotment being minor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a pucca single storey Jhuggi No. A-171 of the family of the Appellant/Claimant was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 but the Appellant/Claimant was living jointly with his parents being minor.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. A-171 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & his family has been using the said Jhuggi for residential purposes. The Appellant/Claimant was not living separately & independently in Jhuggi No. A-171 but he was living jointly with his parents on the cutoff date of 01.01.2015.

13. Now we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey.

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

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

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

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

<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."

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

17. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2588861 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C). The Appellant/ Claimant has categorically admitted that his date of birth is 29.11.2001. He has also further specifically stated that in the Voter ID Card (Annexure-A) and Pan Card (Annexure-C) his date of birth is correctly recorded to be 29.11.2001. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that he was minor on the cut off date of 01.01.2015. This shows that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was less than 18 years of age on the cut off date of 01.01.2015.

18. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2588861 (Annexure-A), which has been issued on 19.03.2022, much after the cut off date of 01.01.2015 and accordingly his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, does not arise at all. We have no hesitation in holding that the Appellant/ Claimant was not having all the requisite documents, including Voter ID card, on the cutoff date of 01.01.2015 and his name does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-G & Annexure-H) & Aadhar Card (Annexure-I), PAN Card (Annexure-J) & Pass Book of UBI (Annexure-L) of his

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mother Poonam, Pass Book of SBI (Annexure-E), Electricity Bill (Annexure-F), Ration Card (Annexure-K).

20. It is pointed out that the first Voter ID Card CXY 1352723 (Annexure-G) has been issued on 18.11.2002 and the second Voter ID Card No. ARE 2588507 (Annexure-H) has been issued on 19.03.2022. The mother of the Appellant/Claimant having two Voter ID Cards (Annexure-G & Annexure-H) creates doubt & suspicion. The Pass Book of UBI (Annexure-L) shows that his mother had opened the account on 23.03.2022, much after the cutoff date of 01.01.2015. The Pass Book of SBI (Annexure-E) shows that the Appellant/Claimant had opened the account on 28.07.2021, much after the cutoff date of 01.01.2015. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken in the name of his father Mangal on 18.06.2008 and Ration Card (Annexure-K) has been issued in the name of his mother, Poonam and the name of the Appellant/Claimant is also mentioned but the date of issuance is not mentioned. The abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because the Appellant/ Claimant was minor on the cut off date of 01.01.2015 and he was not having Voter ID Card on the cut off date of 01.01.2015 and further his name does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. The material placed on file shows that the Appellant/ Claimant was less than 18 years of age on the cut off date of 01.01.2015 and accordingly Voter ID Card could not have been issued in his favour as he was minor on the cut off date of 01.01.2015. The Voter ID Card No. ARE 2588861 (Annexure-A), which has been issued on 29.03.2022, much after the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was less than 18 years of age on the cut off date of 01.01.2015 and accordingly he was not having a Voter ID Card on the cut off date of 01.01.2015 and further the Voter ID Card No. ARE 2588861 (Annexure-A), which has been issued on 29.03.2022, much after the cut off date of 01.01.2015 and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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22. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/86.G/1496 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 685 of 2023

Date of Institution: 25.01.2023

Date of Order: 23.05.2023

Present: Appellant/ Claimant Vinita D/o Ganga Charan

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-149, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. D-149 was found to be used for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No.

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385/35/4.G/1694 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 685 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 18.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-149 was found to be used for commercial purposes and accordingly she 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 her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Commercial"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. D-149 was found to be exclusively used for commercial purposes and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

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

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claim and prayed that DDA be directed to make allotment in her favour. It is argued on behalf of the Appellant/ Claimant that she fulfills the criteria and possesses all the requisite documents. The Jhuggi bearing No. D-149 has been wrongly found to be used solely for commercial purposes because she along with his family was using it for residential-cum-commercial purposes on the cutoff date of 01.01.2015 and she has furnished documents in proof of residence.

8. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and her name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she had made wrong claim in collusion with his family members to claim alternate allotment from DDA in spite of the fact that she was not living in Jhuggi No. D-149 regarding which she has claimed allotment from DDA but instead on the cutoff date of 01.01.2015 she was found to be solely using the said Jhuggi for commercial purposes by running a shop for selling Earthen Pots from there and further she has come forward with a wrong & false story. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/35/4.G/1694 dated 07.11.2022.

9. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

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

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.

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

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

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

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

10. The statement of the Appellant/ Claimant, Vinita, has been recorded before us on 18.05.2023, wherein she has stated that her parents, Ganga Charan & Shakuntala, are having six daughters namely, Reena, Hemlata, Rashmi, Heena, Radha & Vinita (Appellant/Claimant). and one son, Arun. The Appellant/Claimant further stated that her father Ganga Charan had expired in the year 1990. All the children except Radha & Vinita are married. All the married daughters are living in their respective matrimonial homes. Reena lives in Sangam Vihar, Hemlata lives in Faridabad, Rashmi lives in Navjeevan Camp and Heena lives in Sangam Vihar. Arun is married with Anita and having two children.

11. The Appellant/ Claimant has stated that her family is having a double storey Jhuggi No. D-149 and it comprises of two rooms on the ground floor and one room on the first floor. The ground floor is divided into two portions. In the front portion the Appellant/Claimant Vinita runs a shop for selling earthen ware pots, but she lives on rent in Jhuggi no. B-199, which belongs to one Nanda Kumari. The Appellant/Claimant has further stated that her mother Shakuntala lives in the second portion of the ground and a pucca staircase is going from inside the room of her mother to the first floor and against this room on the ground floor of Jhuggi no. D-149 her mother Shakuntala has got allotment from DDA. These facts are not disputed by DDA.

12. The Appellant/Claimant has further stated that her brother Arun lives on the first floor of Jhuggi No D-149 along with his family and has sought allotment from DDA against the same. But his claim was rejected by Eligibility Determination Committee and aggrieved by the same he has filed appeal No. 277 of 2023 before the Appellate Authority but his appeal for allotment has also been rejected by the Appellate Authority on 31.01.2023. These facts are not disputed by DDA.

13. Appellant/ Claimant has stated that she has sought allotment from DDA against the shop on the ground floor of Jhuggi No. D-149 but her claim was rejected by Eligibility Determination Committee and aggrieved by the same she has filed the present appeal No. 685 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has

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tendered documents, Annexure- A to Annexure I, and prayed that DDA be directed to make allotment in her favour.

14. DDA has furnished the survey records along with ten video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 18.05.2023 wherein she has stated that in the first 2 video clips of the first portion of ground floor, her mother Shakuntala is seen and her room and kitchen are seen and further a pucca staircase going from inside her room to the first floor is also seen. The Appellant/Claimant further stated that in the next 2 video clips of the second portion of ground floor her shop is seen and Vinita is seen standing in her shop of earthen ware "Matkas" and she is seen holding a slate in her hand on which **"Vinita D-149 G- (SHOP)"** has been written. Further in the next 6 video clips of first floor her brother Arun is seen standing and his room and kitchen is also seen.

15. As already pointed out the Appellant/Claimant has categorically stated that in addition to Jhuggi No. D-149 which she was using for commercial purposes she has taken another Jhuggi No. B-199 on rent from one Nanda Kumari. This admission is a clincher piece of evidence thereby showing that the Appellant/Claimant has not been using Jhuggi no. D-149 for residential purposes but it has been used solely for commercial purposes. It has already been pointed out that in the video prepared by the survey team the Appellant/Claimant is seen holding a slate in her hand on which "Vinita D-149 G- (SHOP)" has been written and this shows that admission on her part that the said Jhuggi was used solely for commercial purposes as shop.

16. The survey records as well as the video clip furnished by DDA shows that Jhuggi No. D-149 is exclusively used by her solely for commercial purposes. Further, in the video she is clearly seen to be standing outside her shop and holding a slate on which "Vinita D-149 G-(SHOP)" is written. Further, the Appellant/Claimant has specifically admitted that she has been living on rent in Jhuggi No. B-199 of Nanda Kumari thereby showing that the Jhuggi No. D-149 is not used for both residential and commercial purposes but it is solely used by the Appellant/Claimant for commercial purposes for selling 'Earthern ware Pots".

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17. The condition contained in Part–B Paras No. 8 & 9 of DDA policy detailed in Para no. 9 above runs as under:

> *"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."*
>
> *"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."*

18. As per our discussion above, the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Jhuggi No. D-149 has been used by the Appellant/Claimant for running a shop for selling "Earthen ware pots" on the cutoff date of 01.01.2015 and it was not put to mixed use as commercial/residential or exclusively for residential purposes but it was solely used by the Appellant/Claimant for commercial purposes for selling "Earthen Ware pots". Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The bare perusal of the Policy detailed in Para no. 9 above shows that for claiming allotment the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. Now we shall first appraise the material placed on file to determine the eligibility of the present Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey.

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21. The Appellant/Claimant her Voter ID Card (Annexure-A) and Aadhar Card (Annexure-B), Voter Lists of the year 2012 (Annexure-H) and Voter List of 2019 (Annexure-I).

22. It is pointed out that the Voter ID Card (Annexure-A) is bearing the number ARE 1191493 issued on 27.10.2008. The name of the Appellant/Claimant appears at Sl. No. 489 in the Voter List of the year 2012 (Annexure-H) & at Sl. No. 829 in the Voter List of 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012 & also in the year of survey.

23. The Appellant/Claimant has tendered the Aadhar Card (Annexure-B), Electricity Bill (Annexure-C), Conductor's License (Annexure-D), Caste Certificate (Annexure-E), Old Ration Card (Annexure-F) and New Ration Card (Annexure-G).

24. It is pointed out that the Electricity Bill (Annexure-C) shows that the electricity connection has been taken by her brother Arun on 19.05.2008. The Appellant/Claimant has tendered her old Ration Card (Annexure-F) issued in her mother Shakuntala's name. The name of Appellant/Claimant is also mentioned in this Ration Card. The Old Ration Card has been issued on 11.01.2005. The new Ration Card has also been issued in her mother Shakuntala's name but the date of issuance is not mentioned in this card. The name of Appellant/Claimant is also mentioned in this Ration Card. But it is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Jhuggi No. D-149 has been used by the Appellant/Claimant for running a shop for selling earthen ware pots (matkas) on the cutoff date of 01.01.2015 and it was not put to mixed use as commercial/residential or exclusively for residential purposes but it is solely used by the Appellant/Claimant for commercial purposes for selling matkas. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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25. The material placed on file as well as the statement of the Appellant/ Claimant shows that on the cutoff date of 01.01.2015 the Jhuggi No. D-149 was not put to mixed use as commercial/residential or exclusively for residential purposes but it was solely used by the Appellant/Claimant for commercial purposes for selling earthen ware pots. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, as per our discussion above we have no hesitation in holding that on the cutoff date of 01.01.2015 the Jhuggi No. D-149 was not put to mixed use as commercial/residential or exclusively for residential purposes but it was solely used by the Appellant/Claimant for commercial purposes. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly he is not entitled for alternate allotment.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/35/4.G/1694 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 475 of 2023

Date of Institution: 30.11.2022

Date of Order: 23.05.2023

Present: Appellant/ Claimant Sakshi W/o Satish D/o Ramji

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-116, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-116 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/93.2.1/1499 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 475 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 01.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-116 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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

7. The statement of the Appellant/Claimant, Sakshi, has been recorded before us on 01.05.2023 wherein she has stated that her parents, Ramji & Indrawati, are having one son, Gautam and four daughters Laxmi, Sakshi, Puja & Pinki. All the children except Puja & Pinki are married. Laxmi is married with Sarwan and living in her matrimonial home in Sangam Vihar, Delhi. Gautam is married with Reena and having one son, Tanish. Sakshi (Appellant/Claimant) is married with Satish and having two children, Anis & Robin.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. D-116 and it comprises of one room on the ground floor, two rooms on the first floor and one kitchen on the second floor. Her parents, Ramji & Indrawati, along with their unmarried daughters, Puja & Pinki, are living on the ground floor of the said Jhuggi No. D-116 and regarding that DDA has made allotment in favour of her mother Inderawati. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that her brother, Gautam, along with his wife Reena & son is living in one of the rooms on the first floor bearing Jhuggi No. D-116 and regarding that Gautam 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. 474 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband, Satish, & children, is living in the second room on the first floor of the said Jhuggi No. D-116 and having kitchen on the second floor. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-116 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 475 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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11. It is pointed out that both the appeals bearing Appeal No. 47 of 2023 and Appeal Mo. 475 of 2023 shall be decided separately on their individual merit.

12. DDA has furnished the survey record along with 10 video clips pertaining to Jhuggi No. D-116. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 01.05.2023 wherein she has stated that in 3 video clips, Indrawati, mother of the Appellant/Claimant, is seen on the ground floor of the Jhuggi No. D-116 and her room & kitchen are also seen. In 3 video clips Gautam is seen in his Jhuggi on the first floor and his room & kitchen are also seen. Further, a pucca staircase constructed outside in the gali and going to the first floor is also seen. In the remaining 4 videos, she (Sakshi-Appellant/Claimant) is seen standing in her kitchen on the second floor is seen but the survey of her room on the first floor was not conducted to show her room on the first floor. However, there is nothing to disbelieve the statement of the Appellant/Claimant that his family is having a triple storey Jhuggi No. D-116 and it comprises of one room on the ground floor, two rooms on the first floor and one kitchen on the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-116 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the first floor of the said Jhuggi for residential purposes and the room on the second floor as kitchen.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-116 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes and the room on the second floor as kitchen.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/93.2.1/1499 dated 07.11.2022.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not

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have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

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

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

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

19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also

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

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1190388 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2019 (Annexure-M).

24. It is pointed out that the Voter ID Card No. ARE 1190388 has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 754 in the Voter List of 2019 (Annexure-M). However no voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) have been placed on file to show that the Appellant/ Claimant has used Voter ID Card No. ARE 1190388 (Annexure-A) to cast her vote during these years. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in the voter list of the year of survey but there is no material on file to show that her name also appears in the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015).

25. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-116 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered her Ration Card (Annexure-L), which has been issued in favour of the

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Appellant/Claimant on 15.10.2022, much after the cut off date of 01.01.2015. The Application (Annexure-K) shows that the Appellant/Claimant has made application time & again to get the Ration Card issued. First application was made on 08.11.2013, second on 12.01.2016 and third on 24.12.2018 and finally the Ration Card (Annexure-L) was used in favour of the Appellant/Claimant. This shows that the last application was made on 24.12.2018, much after the cut off date of 01.01.2015 and accordingly the legal inference can be drawn that the said Ration Card (Annexure-L) was issued much prior to the cut off date of 01.01.2015. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-116 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered her e-SHRAM Card (Annexure-D) as well as the Voter ID Card No. ARE 1756575 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her husband, Satish, and Aadhar Card (Annexure-I) of her son Robin and the Pass Book of Union Bank (Annexure-J).

27. It is pointed out that Voter ID Card No. ARE 1756575 (Annexure-E) has been issued on 10.09.2013. The Pass Book of PNB (Annexure-J) shows that the account has been opened on 05.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and her name also does not appear in the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-M, are of no help to the

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Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and her name also does not appear in the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/93.2.1/1499 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

23/5/2023

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

23/5/2023

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

23/5/2023

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 474 of 2023

Date of Institution: 30.11.2022

Date of Order: 23.05.2023

Present: Appellant/ Claimant Gautam Kumar S/o Ramji

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-116, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-116 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/93.1.1/1498 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 474 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 01.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-116 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Gautam, has been recorded before us on 01.05.2023 wherein he has stated that his parents, Ramji & Indrawati, are having one son, Gautam and four daughters Laxmi, Sakshi, Puja & Pinki. All the children except Puja & Pinki are married. Laxmi is married with Sarwan and living in her matrimonial home in Sangam Vihar, Delhi. Sakshi is married with Satish and having two children, Anis & Robin. Gautam (Appellant/Claimant) is married with Reena and having one son, Tanish.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. D-116 and it comprises of one room on the ground floor, two rooms on the first floor and one kitchen on the second floor. His parents, Ramji & Indrawati, along with their unmarried daughters, Puja & Pinki, are living on the ground floor of the said Jhuggi No. D-116 and regarding that DDA has made allotment in favour of his mother Indrawati. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his sister, Sakshi, along with her husband Satish & children is living in one of the rooms on the first floor & having kitchen on the second floor bearing Jhuggi No. D-116 and regarding that Sakshi 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. 475 of 2023 before the Appellate Authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Reena & son, Tanish, is living in the second room on the first floor of the said Jhuggi No. D-116. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-116 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 474 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. It is pointed out that both the appeals bearing Appeal No. 474 of 2023 and Appeal No. 475 of 2023 shall be decided separately on their individual merit.

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12. DDA has furnished the survey record along with 10 video clips pertaining to Jhuggi No. D-116. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 01.05.2023 wherein he has stated that in 3 video clips, Indrawati, mother of the Appellant/Claimant, is seen on the ground floor of the Jhuggi No. D-116 and her room & kitchen are also seen. In 3 video clips he (Gautam-Appellant/Claimant) is seen in his Jhuggi on the first floor and his room & kitchen are also seen. Further, a pucca staircase constructed outside in the gali and going to the first floor is also seen. In the remaining 4 videos, Sakshi is seen standing in her kitchen on the second floor is seen but the survey of her room on the first floor was not conducted to show her room on the first floor. However, there is nothing to disbelieve the statement of the Appellant/Claimant that his family is having a triple storey Jhuggi No. D-116 and it comprises of one room on the ground floor, two rooms on the first floor and one kitchen on the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-116 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-116 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having

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separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015 as he was having a joint Ration Card with his mother, Indrawati. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/93.1.1/1498 dated 07.11.2022.

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

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

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

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

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

19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

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to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1456820 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

24. It is pointed out that the Voter ID Card bearing number ARE 1456820 (Annexure-A) has been issued on 25.06.2018, much after the cutoff date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2014 (Annexure-I) in which his name appears at Sl. No. 13 and the Voter list of the year 2019 (Annexure-J) in which his name appears at Sl. No. 41. It shows that the original Voter ID Card No. ARE 1456820 must have been issued much earlier to 25.06.2018 as it has been reflected in the Voter list of the year 2014 (Annexure-I) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 25.06.2018 but the original was in existence even in the year 2014 and that is why it has been reflected in the Voter List of the year 2014 (Annexure-I) and also in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

25. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-116 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-H), which has been issued in the name

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of his mother, Indrawati, and the names of the family members, including that of the present Appellant/Claimant, has been recorded but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-116 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his e-SHRAM Card (Annexure-D), Pass Book of PNB (Annexure-E) as well as the Voter ID Card No. XJE 1942325 (Annexure-F) & Aadhar Card (Annexure-G) of his wife Reena.

27. It is pointed out that the Pass Book of PNB (Annexure-E) shows that the account has been opened on 18.02.2010 and the Voter ID Card bearing number XJE 1942325 (Annexure-F) has been issued on 28.07.2016. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having

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a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/93.1.1/1498 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

23/5/2023

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

23/5/2023

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

23/5/2023

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 370 of 2023

Date of Institution: 29.11.2022

Date of Order: 23.05.2023

Present: Appellant/Claimant Iqbal Ahmed Siddiqui S/o Mohd. Islam Siddiqui

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

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-5-A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. No. D-5-A was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/19/18.1/802 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 370 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. No. D-5-A was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Iqbal Ahmed Siddiqui, has been recorded before us on 17.05.2023 wherein he has stated that his parents, Aslam & Murshida are

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having five sons, Shahid, Iqbal Ahmed, Aftab, Mahtab & Md. Sadiq and two daughters, Hasina & Sadma. All the children except Md. Sadiq & Sadma are married. Shahid is married with Reshma and having four children. Mehtab is married with Saista and having two children. Aftab is also married with Rehana. Hasina is living in her matrimonial home in Punjab. Iqbal Ahmed (Appellant/Claimant) was previously married with Asma and after taking divorce, he had remarried with Sayma.

8. The Appellant/Claimant has stated that his family is having two Jhuggis in Bhoomiheen Camp and one is a double storey structure whereas the other is a triple storey structure.

DOUBLE STOREY JHUGGI

9. The Appellant/Claimant has stated that his parents are living on the ground floor of the double storey Jhuggi and the Jhuggi on the ground floor is bearing No. D-2 and regarding that DDA has made allotment in favour of his mother Murshida. Further, his brother Mehtab along with his family is living on the first floor of the said Jhuggi and the Jhuggi on the first floor is bearing Jhuggi No. D-133 and regarding that DDA has made allotment in favour of Mehtab. These facts are not disputed by DDA.

TRIPLE STOREY JHUGGI

10. The Appellant/Claimant has stated that the second triple storey Jhuggi comprises of one room on each floor and there is a pucca staircase constructed outside in the gali for going to the first floor and thereafter another iron ladder is placed on the first floor for going to the second floor. Shahid along with his wife Reshma and children are living on the ground floor of the second triple storey Jhuggi and the ground floor is bearing Jhuggi No. D-2/G and regarding that DDA has made allotment in favour of Reshma. Further, Aftab along with his family is living on the first floor of the said triple storey Jhuggi and the first floor is bearing Jhuggi No. D-290 and regarding that DDA has made allotment in favour of Aftab. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Sayma is living on the second floor of the second Jhuggi and the second floor is bearing Jhuggi No. D-5/A. The Appellant/Claimant has claimed allotment against the second floor of the said Jhuggi No. D-5/A but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 370 of 2023 before the

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Appellate Authority for redressal. He has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with thirteen video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.05.2023 wherein he has stated that seven video clips pertain to the ground floor in which Reshma is seen on the ground floor and her room & kitchen are also seen. In the next four video clips, Aftab is seen on the first floor and he is heard stating that "he had divorced his wife Rehana." The next four videos pertain to the second floor second floor in which Appellant/Claimant Iqbal Ahmad is seen and further, he is also holding a slate in his hand on which **"IQBAL AHMED SIDDIQUE D-5/A–SF"** has been written thereby showing that the Appellant/ Claimant in living on the second floor and he has got the survey conducted of his Jhuggi on the Second Floor bearing No. D-5/A.

13. The Appellant/Claimant has also tendered pen drive (Annexure-K) containing the video clip of both the Jhuggis and the said video is saved in the computer along with the video clips prepared by the survey team of DDA and the same was also played before the Appellant/Claimant when his statement was recorded before us on 17.05.2023 wherein he has stated that in the video clip the second Jhuggi of his family is clearly seen to be a triple storey structure and there is a room on the ground floor of Reshma W/o Shahid bearing Jhuggi No. D-2/G and further a pucca staircase going from outside in the gali to the upper floor is seen. Thereafter the room of Aftab bearing Jhuggi No. D-290 is also seen on the first floor and an iron ladder placed on the first floor for going to the second floor is also seen. The room of Reshma and Aftab are also seen to have been sealed by DDA since allotment has been made in their favour. Thereafter, his (Iqbal Ahmed-Appellant/Claimant) room on the second floor bearing Jhuggi No. D-5/A is also seen and further his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips furnished by DDA and also the Pen drive (Annexure-K) furnished by the Appellant/Claimant has duly proved that a triple storey Jhuggi was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi, which was bearing Jhuggi No. D-5A, for residential purposes.

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14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi, which was bearing Jhuggi No. D-5A, for residential purposes.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/19/18.1/802 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

20. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the

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Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

21. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

22. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

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23. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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

GIST OF THE POLICY

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

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name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

27. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

28. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

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

30. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1842763 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

31. It is pointed out that the Voter ID Card No. ARE 1842763 (Annexure-A) has been issued on 16.02.2017, much after the cut off date of 01.01.2015. Further, the name of

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the Appellant/Claimant appears at Sl. No. 1276 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 140 in the Voter List of the year 2019 (Annexure-J). It shows that the original Voter ID Card No. ARE 1842763 must have been issued much earlier to 16.02.2017 as it has been reflected in the Voter list of the year 2014 (Annexure-I) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 16.02.2017 but the original was in existence even in the year 2014 and that is why it has been reflected in the Voter List of the year 2014 (Annexure-I) and also in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

32. The Appellant/ Claimant has stated that he is having a separate Ration card on the address of the first floor of the said Jhuggi No. D-5A regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his old Ration Card (Annexure-F) thereby showing that it has been issued in favour of the Appellant/Claimant on 15.06.2002. Thereafter new Ration Card (Annexure-G) bearing No. 077004206255 has been issued in his favour but the date of issuance is not mentioned. The Appellant/Claimant has tendered the Verification Report (Annexure-H) downloaded from Internet thereby showing that his Ration Card (Annexure-G) bearing No. 077004206255 has been issued on 17.07.2014. The fact remains that the Appellant/Claimant was having a separate Ration Card on the cutoff date of 01.01.2015 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.

33. The Appellant/Claimant has also tendered his Driving License (Annexure-D) and Passport (Annexure-E). It is pointed out that the Driving License (Annexure-D) has been issued on 17.06.1996 and the Passport (Annexure-E) also shows that it has been issued on 24.10.2005. 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 does not fulfill the eligibility criteria as per the

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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.

34. The material placed on file shows that the Appellant/ Claimant has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. D-202 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/19/18.1/802 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 730 of 2023

Date of Institution: 10.02.2023

Date of Order: 22.05.2023

Present: Appellant/Claimant Md. Azad S/o Md. Sharif through his wife Afsana

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

ORDER

1. This order disposes off the present Appeal filed by the present Appellant/Claimant Md. Azad S/o Md. Sharif through his wife Afsana on 10.02.2023 against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-134, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-134 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present

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Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/07.G/1402 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 730 of 2023 has been filed by the present Appellant/Claimant through his wife Afsana on 10.02.2023.

3. In response to the notice, Afsana wife of Md. Azad S/o Md. Sharif (Appellant/ Claimant) has appeared in person and stated that her husband had gone to Saudi Arabia and accordingly she is appearing on his behalf in the present Appeal. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of Afsana has been recorded before us today and she has also tendered documents, Annexure-A to Annexure-G, in support of the claim of Appellant/Claimant Md. Azad S/o Md. Sarif. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-134 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

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

7. Afsana W/o Mohd. Azad (Appellant/Claimant) has stated that her husband Moh. Azad, Appellant/ Claimant, has gone to Saudi Arabia and accordingly she had appeared and making statement before us on 16.05.2023 in support of the claim of her husband Mohd. Azad wherein she has stated that her in-laws, Mohd. Sharif & Razikum Begum, are having four sons, Zakir Hussain, Mohd. Azad, Irshad & Mahfuz and two daughters Shakila & Rani. All the children except Mehfuz are married. Both the daughters Shakila & Rani are living in their respective matrimonial homes in Allahabad, Uttar Pradesh. Zakir Hussain is married with Reshma and having two children. Irshad is married with Shabnam and having two children whereas Mohd. Azad (Appellant/Claimant) is married with Afsana and they are not having any issues. Zakir Hussain, Irshan as well as the present Appellat/Claimant Mohd. Azad are working in Saudi Arabia whereas Reshma W/o Zakir Hussain and Shabnam W/o Irshad as well as Mahfuz are living in their native village in Allahabad, Uttar Pradesh. However, Afsana is living with her in-laws in Bhoomiheen Camp.

8. Afsana, W/o Mohd. Azad, Appellant/Claimant has stated that her in-laws, Mohd. Sharif & Razikum Begum, are having a triple storey Jhuggi No. D-134 and it comprises of one room on the ground floor and two rooms on the first floor and one room on the third floor and further a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. Afsana has stated that her father-in-law Mohd. Sharif is running a tailor shop on the ground floor and one of the rooms on the first floor is used for living purposes & thesecond room is used as store by her in-laws, Mohd. Sharif & Razikum Begum, whereas Afsana is living on the second floor.

9. Afsana has stated that the first & the second floors are not having independent access from the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. This shows that the first and the second floors of the Jhuggi No. D-134 are not separate and independent dwelling units because they are not having an independent access from the gali. However, in order to reach the first and the second floors, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, both the first and the second floors of Jhuggi No. D-134 are not separate & independent dwelling units but both are part & parcel of one dwelling

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unit of the parents, Mohd. Sharif & Razikum Begum, of the Appellant/Claimant bearing Jhuggi No. D-134 for all purposes.

10. Thus we have no hesitation in holding that the statement of Afsana accordingly shows that the first and the second floors of the Jhuggis No. D-134 are not having any independent access from the gali but in order to reach the upper floors, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the ground, first & the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-134 of the father of the Appellant/Claimant, MD. Sharif for all purposes.

11. Afsana has stated that her in-laws are having a triple storey Jhuggi No. D-134 and it comprises of one room on the ground floor and two rooms on the first floor and one room on the third floor and further a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. Her father-in-law Mohd. Sharif is running a tailor shop on the ground floor and one of the rooms on the first floor is used for living purposes & the second room is used as store by Mohd. Sharif & Razikum Begum. DDA has made allotment against the ground floor and the first floor of the said Jhuggi No. D-134 in favour of her father-in-law Mohd. Sharif. These facts are not disputed by DDA.

12. Afsana has stated that she along with her husband Mohd. Azad (until he left for working in Saudi Arabia) used to live on the second floor of the said Jhuggi No. D-134. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. D-134 but the claim of the Appellant/Claimant has been rejected by the Eligibility Determination Committee and aggrieved by the same, Mohd. Azad has filed the present Appeal No. 730 of 2023 before the Appellate Authority for redressal. Afsana has also tendered documents, Annexure-A to Annexure-G, in support of claim of her husband Mohd. Azad (Appellant/Claimant) and prayed that DDA be directed to make allotment in favour of her husband Mohd. Azad (Appellant/Claimant).

13. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. D-134. The video clips were played before Afsana W/o Mohd. Azad, Appellant/Claimant, when her statement was recorded before us on 16.05.2023 wherein she has stated that in the video clips her in-laws of are seen on the ground floor of the Jhuggi No. D-134 and a pucca staircase going from inside the shop on the

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ground floor to the upper floor is seen. However, no video clip of the second floor is furnished.

14. The admission of Afsana is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA, which were prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. D-134 are not having any independent access from the gali but in order to reach the upper floors one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-134 of Md. Sharif for all purposes.

15. Thereby keeping in view that the first and the second floors of Jhuggi No. D-134 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-134 of Md. Sharif for all purposes and DDA has already made allotment in favour of Md. Sharif regarding the said Jhuggi No. D-134. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of his father Md. Sharif, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-134. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the second floor because it is part & parcel of single dwelling unit bearing Jhuggi No. D-134 of his father Md. Sharif. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. Afsana has stated that the claim of Appellant/ Claimant has been wrongly rejected by DDA and has tendered documents, Annexure-A to Annexure-G, in support of the claim of the Appellant/ Claimant 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

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separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/07.G/1402 dated 07.11.2022.

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

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

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license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

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

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

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

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

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

21. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

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22. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

23. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

24. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

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In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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

GIST OF THE POLICY

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

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

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second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

28. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

29. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

30. The Appellant/Claimant through his wife Afsana has tendered his Voter ID Card bearing No. ARE 1191196 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2013 (Annexure-F) & Voter List of the year 2019 (Annexure-G).

31. It is pointed out that the Voter ID Card No. ARE 1191196 has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. Further, his name also appears at Sl. No. 465 in the Voter List of the year 2013 (Annexure-F) & at Sl. No. 807 in the Voter List of the year 20169 (Annexure-G). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2013 and & also in the year of survey.

32. Afsana has also categorically admitted that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. D-134 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the

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cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. D-134 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant through his wife Afsana has tendered the Voter ID Card No. ARE 1188473 (Annexure-C) & Aadhar Card (Annexure-D) of his wife Afsana as well as the Electricity Bill (Annexure-E).

34. It is pointed out that the Voter ID Card ARE 1188473 (Annexure-C) has been issued on 11.04.2008. The Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his father Mohd. Sharif on 11.04.2008 on the ground floor of Jhuggi No. D-134 thereby showing that the Appellant/Claimant was not having an electricity connection on the second floor of Jhuggi No. D-134 regarding which he is claiming allotment from DDA. It is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because as per our discussion above we have held that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. D-134 regarding which he is claiming allotment from DDA and further the first and the second floors of Jhuggi No. D-134 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-134 of MD. Sharif for all purposes and DDA has already made allotment in favour of his father, MD. Sharif, regarding the said Jhuggi No. D-134. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-134.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. D-134 has also been found to be one dwelling unit bearing Jhuggi No. D-27 of MD. Sharif for all purposes and DDA has already made allotment in favour of MD. Sharif (father of Appellant/Claimant) regarding the said Jhuggi No. D-134. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant

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because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. D-134 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No D-134 has also been found to be one dwelling unit bearing Jhuggi No. D-134 of MD. Sharif for all purposes and DDA has already made allotment in favour of MD. Sharif (father of Appellant/Claimant) regarding the said Jhuggi No. D-134 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/07.G/1402 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 366 of 2023

Date of Institution: 29.11.2022

Date of Order: 22.05.2023

Present: Appellant/ Claimant Pintu Prajapati S/o Ram Kumar

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-114, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-114 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/65.1/785 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 366 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-114 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Pintu Prajapati, has been recorded before us on 03.05.2023 wherein he has stated that his parents, Ram Kumar & Shingari, are

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having three sons, Vikram, Pintu & Rinku and daughter Manshi. All the children except Mansi are married. Rinku is married with Priyanka. Vikram is married with Jyoti and having two children, Arush and Priyanshi. Pintu (Appellant/Claimant) is married with Neelam and having one son Divyansh.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. D-114 and it comprises of one room on each floor and having pucca staircase constructed outside in the gali for going to the first floor and further an iron ladder is placed on the first floor for going to the second floor. His parents, Ram Kumar & Shingari, along with their unmarried daughter, Mansi, are living on the ground floor of the said Jhuggi No. D-114 and regarding that DDA has made allotment in favour of his mother Shingari. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brothers, Vikram & Rinku, along with their respective families are living on the second floor of the said Jhuggi No. D-114 but they have not sought allotment from DDA. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Neelam & son Divyansh, is living on the first floor of the said Jhuggi No. D-114. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-114 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 366 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with 5 video clips pertaining to Jhuggi No. D-114. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.05.2023 wherein he has stated that in 2 video clips, Shingari, mother of the Appellant/Claimant, is seen on the ground floor of the Jhuggi No. D-114 and her room & kitchen are also seen. In 3 video clips he (Pintu-Appellant/Claimant) is seen in his Jhuggi on the first floor and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-114 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the

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Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-114 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

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

14. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015 as he was having a joint Ration Card with his mother, Shingari. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/65.1/785 dated 07.11.2022.

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

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

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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

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

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

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

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

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

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

17. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper

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

GIST OF THE POLICY

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

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

21. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1770320 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-I) & Voter List of the year 2019 (Annexure-J).

22. It is pointed out that the Voter ID Card bearing number ARE 1770320 (Annexure-A) has been issued on 22.08.2014, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2015 (Annexure-I) in which his name appears at Sl. No. 185 and the Voter list of the year 2019 (Annexure-J) in which his name appears at Sl. No. 254. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 & also in the year of survey.

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23. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-114 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-G), which has been issued in the name of his mother, Shingari, and the names of the family members, including that of the present Appellant/Claimant, has been recorded but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-114 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), Pass Book of SBI (Annexure-E), Handicap Certificate (Annexure-F) and Aadhar Card (Annexure-H) of his wife Neelam.

25. It is pointed out that the Electricity Bill (Annexure-D) shows that the connection has been taken by his father Ram Kumar on 31.05.2008 on the ground floor of Jhuggi No. D-114 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of Jhuggi No. D-114 regarding which he is claiming allotment from DDA. The Pass Book of SBI (Annexure-E) shoes that the account was open on 08.08.2016, much after the cutoff date of 01.01.2015. The Handicap Certificate (Annexure-E) has been issued on 16.04.2021, much after the cutoff date of 01.01.2015 and Aadhar Card (Annexure-H) of his wife Neelam has been issued on the address of Uttar Pradesh and not on the address of first floor of Jhuggi No. D-114, Bhoomiheen Camp 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 and also in the year of survey.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/65.1/785 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 365 of 2023

Date of Institution: 29.11.2022

Date of Order: 22.05.2023

Present: Appellant/Claimant Amit Kumar S/o Kunwar Pal

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

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-202, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-202 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/57.2/781 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 365 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-202 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Amit Kumar, has been recorded before us on 17.05.2023 wherein he has stated that his parents, Kuwar Pal & Raj Kumari, are having

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five sons; Sanjeev, Amit, Sunil, Pawan & Ravi and one daughter, Roshni. Sunil, Pawan & Ravi are unmarried and living with their parents. Roshni is living in her matrimonial home in Sangam Vihar, Delhi. Sanjeev is married with Veenu and having one son Kavayansh. Amit (Appellant/Claimant) is married with Manju and having two sons, Deepanshu & Ayush.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. D-202 which comprises of one room on each floor and there is an iron ladder placed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that his parents, Kuwar Pal & Raj Kumari, along with their unmarried sons, are living on the ground floor of the said Jhuggi No. D-202 and regarding that DDA has made allotment in favour of his mother Raj Kumari. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brother Sanjeev along with his wife Veenu & children is living on the first floor of the said Jhuggi No. D-202 but his claim has been rejected by DDA and aggrieved by the same, he has filed the Appeal No. 364 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Manju and sons, Deepanshu & Ayush, is living on the second floor of the said Jhuggi No. D-202. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. D-202 but his claim has been rejected by DDA and aggrieved by the same, he has filed the present Appeal No. 365 of 2023 before the Appellate Authority for redressal. He has tendered documents, Annexure-A to Annexure-Q, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. It is pertinent to point out that both the Appeals bearing Appeal No. 364 of 2023 & 365 of 2023 shall be decided separately on their respective merits.

12. DDA has furnished the survey record along with ten video clips pertaining to Jhuggi No. D-202. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.05.2023 wherein he has stated that in three video clips his mother Raj Kumari is seen on the ground floor of the Jhuggi No. D-202 and further her room & kitchen are also seen. In the next five video clips, an iron ladder placed outside in the gali for going to the first floor is seen and further Sanjeev is also seen on the first floor and his room & kitchen are also seen. In the remaining two video clips, an iron ladder for going from the first floor to the second floor is seen

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and further, Manju W/o Amit (Appellant/Claimant) is also seen and their room & kitchen are also seen on the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. D-202 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. D-202 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper

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floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015 as he is having a joint Ration Card issued in the name of his mother Raj Kumari. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/57.2/781 dated 07.11.2022.

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

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

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10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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

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

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

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

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

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

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

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

20. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

21. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor"

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cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

22. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

23. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment

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

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

GIST OF THE POLICY

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

26. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

27. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued

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

28. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

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

30. The Appellant/Claimant has tendered his Voter ID Card ARE 1347285 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), the Voter List of the year 2014 (Annexure-P) and the Voter List of the year 2019 (Annexure-Q).

31. It is pointed out that the Voter ID Card ARE 1347285 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 231 in the Voter List of the year 2014 (Annexure-P) and at Sl. No. 406 in the Voter List of the year 2019 (Annexure-Q). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 & also in the year of survey.

32. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the second floor of the said Jhuggi No. D-202 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered old Ration Card (Annexure-M) issued in the name of his father Kunwar Pal on 15.06.2002 and the name of the Appellant/Claimant has also been mentioned. The new Ration Card (Annexure-N) has been issued in the name of his mother Raj Kumari and the name of

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the Appellant/Claimant has also been mentioned but the date of issuance is not mentioned. The Appellant/Claimant has also tendered the Affidavit (Annexure-O) thereby showing that his name has been mentioned in the joint Ration Card along with other family members. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. D-202 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered his ID Card of ESI (Annexure-D), Voter ID Card No. ARE 1192731 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Manju, Aadhar Card (Annexure-G) of his son Dipanshu and Birth Certificates of Divansh & Dipanshu (Annexure-H & Annexure-I respectively), the Electricity Bill (Annexure-J), Caste Certificate (Annexure-K) and Passport (Annexure-L).

34. It is pointed out that the ID Card of ESI (Annexure-D) has been issued on 23.11.2009. The Voter ID Card No. ARE 1192731 (Annexure-E) has been issued on 27.10.2008 and the Birth Certificates (Annexure-H & Annexure-I) shows that the date of birth of Dipanshu & Devansh are 26.09.2018 & 15.02.2010 respectively. The Electricity Bill (Annexure-J) shows that the connection has been taken by his father Kunwar Pal on 31.05.2008 on the address of ground floor of Jhuggi No. D-202 thereby showing that the Appellant/Claimant was not having electricity connection on the second floor of Jhuggi No. D-202 regarding which he is claiming allotment from DDA. The Caste Certificate (Annexure-K) shows that it has been issued on 12.07.2005 and Passport (Annexure-L) has been issued on 22.12.2014. 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 his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-Q, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. D-202 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/57.2/781 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 364 of 2023

Date of Institution: 29.11.2022

Date of Order: 22.05.2023

Present: Appellant/Claimant Sanjeev Kumar S/o Kunwar Pal

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

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-202, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-202 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal

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Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/57.1/780 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 364 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-202 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Sanjeev Kumar, has been recorded before us on 17.05.2023 wherein he has stated that his parents, Kuwar Pal & Raj Kumari, are having five sons; Sanjeev, Amit, Sunil, Pawan & Ravi and one daughter, Roshni. Sunil, Pawan & Ravi are unmarried and living with their parents. Roshni is living in her matrimonial home in Sangam Vihar, Delhi. Amit is married with Manju and having two sons, Deepanshu & Ayush. Sanjeev (Appellant/Claimant) is married with Veenu and having one son Kavayansh.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. D-202 which comprises of one room on each floor and there is an iron ladder placed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that his parents, Kuwar Pal & Raj Kumari, along with their unmarried sons, are living on the ground floor of the said Jhuggi No. D-202 and regarding that DDA has made allotment in favour of his mother Raj Kumari. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that Amit along with his wife Manju & children is living on the second floor of the said Jhuggi No. D-202 but his claim has been rejected by DDA and aggrieved by the same, he has filed the Appeal No. 365 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Veenu and son Kavayansh, is living on the first floor of the said Jhuggi No. D-202. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-202 but his claim has been rejected by DDA and aggrieved by the same, he has filed the present Appeal No. 364 of 2023 before the Appellate Authority for redressal. He has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. It is pertinent to point out that both the Appeals bearing Appeal No. 364 of 2023 & Appeal No. 365 of 2023 shall be decided separately on their respective merits.

12. DDA has furnished the survey record along with ten video clips pertaining to Jhuggi No. D-202. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.05.2023 wherein he has stated that in three video clips his mother Raj Kumari is seen on the ground floor of the Jhuggi No. D-202 and further her room & kitchen are also seen. In the next five video clips, an iron ladder placed outside in the gali for going to the first floor is seen and further Sanjeev

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(Appellant/Claimant) is also seen on the first floor and his room & kitchen are also seen. In the remaining two video clips, an iron ladder for going from the first floor to the second floor is seen and further, Manju W/o Amit is also seen and their room & kitchen are also seen on the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. D-202 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. D-202 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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

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

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illegality in the impugned rejection order bearing No. 385/18/57.1/780 dated 07.11.2022.

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

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

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

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

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

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

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

19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

GIST OF THE POLICY

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

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

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

24. The Appellant/Claimant has tendered his Voter ID Card ARE 1632413 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

25. It is pointed out that the Voter ID Card No. ARE 1632413 (Annexure-A) has been issued on 16.01.2013, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 229 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 404 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

26. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. D-202 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered old Ration Card (Annexure-F) issued in the name of his father Kuwar Pal on 15.06.2002 and the name of the Appellant/Claimant has also been mentioned. The new Ration Card (Annexure-G) has been issued in the name of his mother Raj Kumari and the name of the Appellant/Claimant has also been mentioned but the date of issuance is not mentioned. The Appellant/Claimant has also tendered the Affidavit (Annexure-H) thereby showing that his name has been mentioned in the joint Ration Card along with other family members. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-202 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.

27. The Appellant/Claimant has also tendered his Passport (Annexure-D), Caste Certificate (Annexure-E), Passbook of SBI (Annexure-I) & Electricity Bill (Annexure-J).

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28. It is pointed out that the Passport (Annexure-D) has been issued on 22.12.2014. The Caste Certificate (Annexure-E) has been issued on 12.07.2005. The Passbook of SBI (Annexure-I) shows that the account has been opened by the Appellant/Claimant but the date of opening of account is not mentioned in the Passbook. The Electricity Bill (Annexure-J) shows that the connection has been taken by his father Kunwar Pal on 31.05.2008 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. D-202 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

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

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bearing No. 385/18/57.1/780 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 731 of 2023

Date of Institution: 09.12.2022

Date of Order: 19.05.2023

Present: Appellant/Claimant Sushil Kumar S/o Munshi Lal

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-1-55 (somewhere written as D-155), Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-1-55 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the

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Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/26.1/1408 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 731 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-1-55 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Sushil, has been recorded before us on 17.05.2023 wherein he has stated that his parents, Munshi Lal & Rajwati, are having two sons, Sushil & Shivam and five daughters, Madhu, Sashi, Annu, Puja & Kanchan. Rajwati has expired in 2007. All the children except Shivam & Kanchan are married. Annu & Puja are living in their respective matrimonial homes in Delhi. Madhu & Sashi are living in their respective matrimonial homes in Uttar Pradesh. Sushil (Appellant/Claimant) is married with Sheetal and having three children, Anshika, Nitya & Prince.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. D-1-55 and it comprises of one room on each floor. The first floor of the Jhuggi No. D-1-55 is not having an independent access from outside the gali but an iron ladder is placed inside the room on the ground floor and the same is used for going to the upper floor.

9. The Appellant/Claimant has stated the first floor is not having independent access from the gali but an iron ladder has been placed inside the room on the ground floor for going to the upper floor. This shows that the first floor of the Jhuggi No D-1-55 is not separate and independent dwelling units because it is not having an independent access from the gali. However, in order to reach the first floor, one has to use the iron ladder placed inside the room on the ground floor. Therefore, both the ground & first floors of Jhuggi No. D-1-55 are not separate and independent dwelling units but both are part and parcel of one dwelling unit of his father, Munshi Lal, on the ground floor bearing Jhuggi No. D-1-55 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first floor of the Jhuggis No. D-1-55 is not having any independent access from the gali but in order to reach the upper floor one has to use the iron ladder placed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-1-55 of his father, Munshi, for all purposes.

11. The Appellant/Claimant has stated that his father, Munshi Lal, along with his unmarried children, Shivam & Kanchan is living on the ground floor of the said Jhuggi No. D-1-55 and regarding that DDA has made allotment in favour of Munshi Lal. These facts are not disputed by DDA.

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12. The Appellant/Claimant has stated that he along with his wife Sheetal and children is living on the first floor of the said Jhuggi No. D-1-55. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi No. D-1-55 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 731 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey record along with 15 video clips pertaining to Jhuggi No. D-1-55. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.05.2023 wherein he has stated that in 10 video clips his father Munshi Lal is seen on the ground floor and further his room & kitchen are also seen and further, an iron ladder is also seen placed inside the room on the ground floor used for going to the upper floor. In the next 5 video clips, the Appellant/Claimant Susheel is seen and his room & kitchen are also seen.

14. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first floor of the Jhuggi No. D-1-55 is not having any independent access from the gali but in order to reach the upper floor one has to use the iron ladder placed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit on the ground floor bearing Jhuggi No. D-1-55 of Munshi Lal for all purposes.

15. Thereby keeping in view that the ground & first floor of Jhuggi No. D-1-55 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-1-55 of his father, Munshi Lal, for all purposes and DDA has made allotment in favour of Munshi Lal regarding the said Jhuggi No. D-202/A. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. D-1-55 of his father, Munshi Lal. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/26.1/1408 dated 07.11.2022.

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

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

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of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year' s 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less

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than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & 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 first floor as per the policy guidelines issued by DDA.

24. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1602267 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) & Voter List of the year 2019 (Annexure-L).

25. It is pointed out that the Voter ID Card No. ARE 1602267 (Annexure-A) has been issued on 16.01.2010, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 45 in the Voter List of the year 2014 (Annexure-K) & at Sl. No. 129 in the Voter List of the year 2019 (Annexure-L) and in both the voter lists his Voter ID Card is mentioned to be bearing number ARE 1602267. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and & also in the year of survey.

26. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2594612 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) of his wife Sheetal as well as the Caste Certificate (Annexure-G), Aadhar Cards of his daughters, Anshika & Bhawna (Annexure-H & Annexure-I) and Pass Book of PNB (Annexure-J).

27. It is pointed out that the Voter ID Card No. ARE 2594612 (Annexure-D) has been issued on 20.04.2022. The Caste Certificate (Annexure-G) has been issued on 15.06.2013. The Pass Book of PNB (Annexure-J) shows that the account was opened on 07.02.2019. It is pointed out that the abovementioned document is of no help to the Appellant/Claimant because as per our discussion above we have held that the ground & first floor of Jhuggi No. D-1-55

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are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No D-1-55 of his father, Munshi Lal, for all purposes and DDA has already made allotment regarding the said Jhuggi No. D-1-55. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-202/A.

28. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-1-55 regarding which he is claiming allotment from DDA. Thus the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-1-55 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.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further both the floors of Jhuggi No. D-1-55 has also been found to be one dwelling unit bearing Jhuggi No. D-1-55 of his father, Munsh Lal, for all purposes and DDA has already made allotment regarding the said Jhuggi No. D-1-55. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further both the floors of Jhuggi No. D-1-55 has also been found to be one dwelling unit bearing Jhuggi No. D-1-55 of his father, Munsh Lal, for all purposes and DDA has already made allotment regarding the said Jhuggi No. D-1-55 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/26.1/1408 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 577 of 2023

Date of Institution: 06.12.2022

Date of Order: 19.05.2023

Present: Appellant/ Claimant Nageena W/o Yakub Ahmad

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-75, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-75 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer,

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Bhoomiheen Camp, duly communicated its order bearing No. 385/66/104.G/1503 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 577 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 15.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-75 was found to exist on the ground floor 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor as per the policy guidelines issued by DDA.

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7. The statement of Appellant/Claimant, Nageena, has been recorded before us on 15.05.2023 wherein she has stated that she was married with Yakub Ahmad and having two children, Anas & Farah, out of the wedlock. Farah is married with Samim and having one son but Samim had died in the year 2020 and now Farah along with her son is living in her matrimonial home in Seelampur. Her husband Yakub had deserted her about fifteen years ago and now he along with his unmarried son Anas is living on rent at some unknown place whereas Nageena (Appellant/Claimant) is living alone in Bhoomiheen Camp.

8. The Appellant/Claimant has stated that she is living in single storey Jhuggi No. D-75 in Bhoomiheen Camp. Her brothers are also living in the neighborhood. DDA has made allotment in favour of her brother Sagir against the Jhuggi No. D-77 and in favour of another brother Iqbal against the Jhuggi No. D-74 whereas the claim of her sister-in-law Bano Begam W/o Bashir Ahmed has been rejected by Eligibility Determination Committee against Jhuggi No. D-76 and her Appeal is pending before the Appellate Authority for redressal.

9. The Appellant/Claimant has stated that she is living alone in the said Jhuggi No. D-75 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 577 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-H, and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey record along with five video clips pertaining to Jhuggi No. D-75. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 15.05.2023 wherein she has stated that in the video clips, she is seen in her Jhuggi having roof made with asbestos sheet and further her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey pucca Jhuggi No. D-75 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the same for residential purpose.

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11. Accordingly, we have no hesitation in holding that the single storey pucca Jhuggi No. D-75 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purpose.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee

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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."

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the

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Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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

17. The Appellant/Claimant has tendered her two Voter ID Card (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Voter List of the year 2009 (Annexure-G) and Voter List of the year 2023 (Annexure-H).

18. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards. The first Voter ID Card No. DL/03/035/252700 (Annexure-A) has been issued on 04.02.1995 and it was used by the Appellant/Claimant to cast vote in the election of 2009 and her name is reflected at Sl. No. 263 in the Voter List of the year 2009 (Annexure-G). The second Voter ID Card No. ARE 2610947 (Annexure-B) has been issued on 11.01.2023, much after the cut off date of 01.01.2015 and it was used by the Appellant/Claimant to cast vote in the election of 2023 and her name is reflected at Sl. No. 1181 in the Voter List of the year 2023 (Annexure-H). It is pertinent to point that the Appellant/Claimant has not tendered the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also of the year of survey to show that she had ever used her Voter ID Card (Annexure-A) to cast vote during the years 2012 to 2019. The Appellant/Claimant has categorically admitted that she had casted her vote in the election of 2009 and after that she had casted her vote after a very long interval in the year 2023 thereby showing that she had never exercised her franchise right during the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. It seems that the first Voter ID Card No. DL/03/035/252700 (Annexure-A) was cancelled by the Election Commission because it was never practically used after year 2009 and this explains the need for the Appellant/Claimant for getting the second

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Voter ID Card (Annexure-B) issued on 11.01.2023. Accordingly legal inference can be drawn that she was not living in Bhoomiheen Camp during all these years and more specifically on the cut off date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 as the first Voter ID Card No. DL/03/035/252700 (Annexure-A) was cancelled by the Election Commission 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 because she had never casted her vote during all these years. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered her two Ration Cards (Annexure-D & Annexure-F) and Electricity Bill (Annexure-F). The old Ration Card (Annexure-D) has been issued on 02.08.2002 in the name of the Appellant/Claimant and the name of her family members has been mentioned. The new Ration Card (Annexure-F) has been issued in the name of the Appellant/Claimant but the date of issuance is not mentioned. The Appellant/Claimant has tendered Electricity Bill (Annexure-E) thereby showing that electricity connection has been taken by the Appellant/Claimant on 07.06.2008. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and further his does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and further his does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and further his does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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21. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/104.G/1503 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 472 of 2023

Date of Institution: 30.11.2022

Date of Order: 19.05.2023

Present: Appellant/ Claimant Madan Kumar S/o Sharan Pal Singh

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No.D-94, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-94 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/052.G/1423 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 472 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 16.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-94 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Madan Kumar, has been recorded before us on 16.05.2023 wherein he has stated that his parents, Saran Pal Singh & Dhanwanti,

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are having three sons; Madan, Jitender & Ravi and one daughter Sushila. Saran Pal Singh had expired in the year 1998. All the children are married. Sushila is living in her matrimonial home in Meerut, Uttar Pradesh. Ravi is married with Dipika and having one son Meer and he is living on rent in Govindpuri, Delhi. Jitender is married with Bimlesh and having two children, Pawan & Dimpy. Madan (Appellant/Claimant) is married with Rekha and having two children, Shriya & Divyansh.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. D-94 which comprises of one room on each floor and there is a pucca staircase going from outside in the gali to the upper floor. His parents, Saran Pal Singh (up till his death in 1998) and Dhanwanti, along with the family of Jitender are living on the ground floor of the said Jhuggi No. D-94 and regarding that DDA has made allotment in favour of his mother Dhanwanti. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Rekha and both the children is living on the first floor of the same Jhuggi No. D-94. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-94 but the claim of the Appellant/Claimant has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 472 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with nine video clips pertaining to Jhuggi No. D-94. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 16.05.2023 wherein he has stated that in five video clips his mother, Dhanwanti, is seen on the ground floor of the Jhuggi No. D-94 and her room & kitchen are seen. Further, a pucca staircase going from outside in the gali to the upper floor is also seen. In the next four videos, Rekha W/o Madan Kumar, (Appellant/Claimant) is seen and their room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-94 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-94 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

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

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/052.G/1423 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper

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

GIST OF THE POLICY

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

19. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1088517 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-L) & Voter List of the year 2019 (Annexure-M).

21. It is pointed out that the Voter ID Card No. CXY 1088517 (Annexure-A) has been issued on 12.03.2002, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 565 in the Voter List of the year 2015 (Annexure-L) and at Sl. No. 686 of the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 and also in the year of survey.

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22. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-94 regarding which he is claiming allotment from DDA. The Appellant/Claimant had tendered his joint Ration Card (Annexure-K), which has been issued in the name of his mother, Dhanwanti, in which the name of the family members, including that of the Appellant/Claimant have been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-94 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.

23. The Appellant/Claimant has tendered his Driving License (Annexure-D), Voter ID Card No. ARE 0829374 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Rekha as well as the Aadhar Card (Annexure-H) of his son Shriya, Electricity Bill (Annexure-I) and Passbook of Federal Bank (Annexure-J).

24. It is pointed out that the Voter ID Card No. ARE 0829374 (Annexure-E) has been issued on 25.10.2008. The Electricity Bill (Annexure-I) shows that the connection has been taken by his mother Dhanwanti on the address of ground floor of the Jhuggi No. D-94 on 10.05.2008 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of the Jhuggi No. D-94 regarding which he is claiming allotment from DDA. The Passbook of Federal Bank (Annexure-J) shows that the account was opened by the Appellant/Claimant on 14.05.2007. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2015 and also in the year of survey.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/052.G/1423 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 423 of 2023

Date of Institution: 29.11.2022

Date of Order: 19.05.2023

Present: Appellant/ Claimant Azad Ali S/o Mohmad Salim

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No.D-56, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-56 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/42.G/1417 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 423 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 16.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-56 was found to exist on the upper floor but he had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Azad Ali, has been recorded before us on 16.05.2023 wherein he has stated that his parents, Mohd. Salim & Fatima Begam, are having one son; Azad Ali and three daughters; Reshma, Sabina & Hasina. All the children are married. All the three daughters Reshma, Sabina & Hasina are living in their respective matrimonial homes in Allahabad, Uttar Pradesh. Azad Ali (Appellant/ Claimant) is married with Firoza and having one son Mohd. Zishan.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. D-56, which comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor. His parents, Mohd. Salim & Fatima begum, are living on the ground floor of the said Jhuggi No. D-56 and regarding that DDA has made allotment in favour of his father Mohd. Salim. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Firoza and son Zishan is living on the first floor of the said Jhuggi No. D-56. The Appellant/Claimant has claimed allotment from DDA against the first floor of the said Jhuggi No. D-56 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 423 of 2023. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with ten video clips pertaining to Jhuggi No. D-56. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 16.05.2023 wherein he has stated that in six video clips his father, Mohd. Salim is seen on the ground floor of the Jhuggi No. D-56 and further his room & kitchen are also seen. In the next four video clips, the Appellant/Claimant is seen on the first floor of the Jhuggi No. D-56 and his room & kitchen are also seen, and further an iron ladder going from outside in the gali to the first floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-56 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the

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Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-56 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

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

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/42.G/1417 dated 07.11.2022.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**

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

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

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

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

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

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

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

16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment

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

GIST OF THE POLICY

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

19. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1188580 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2012 (Annexure-K).

21. It is pointed out that the Voter ID Card ARE 1188580 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 250 in the Voter List of the year 2012

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(Annexure-K). However, it is pointed out that no material is placed on file to show that the Appellant/Claimant has used his Voter ID Card No. ARE 1188580 (Annexure-A) to cast vote in any of the years after 2012. It is pertinent to point that the Appellant/Claimant has not tendered the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also of the year of survey to show that she had ever used her Voter ID Card (Annexure-A) to cast vote after 2012 up to 2019. The Appellant/Claimant has categorically admitted that she had casted her vote in the election of 2012 thereby showing that she had never used her franchise right during the year's 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. It seems that the first Voter ID Card No. ARE 1188580 (Annexure-A) was cancelled by the Election Commission because it was never practically used after year 2012. Accordingly legal inference can be drawn that she was not living in Bhoomiheen Camp during all these years and more specifically on the cut off date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name also does not appear in at least on the voter list of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey because he had never casted his vote. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-56 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-J), which has been issued on 03.05.2014 in the name of his mother, Fatima, and name of the family members, including that of the Appellant/Claimant, has been recorded. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-56 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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23. The Appellant/Claimant has tendered the Voter ID Card ARE 1785377 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Firoza, his Passbook (Annexure-F), Aadhar Card (Annexure-G) of his son Zishan, Electricity Bill (Annexure-H) & the Passbook of Union Bank (Annexure-I).

24. It is pointed out that the Voter ID Card ARE 1785377 (Annexure-D) has been issued on 13.12.2013. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by his father Mohd. Salim on 10.05.2008 on the address of ground floor of Jhuggi No. D-56 thereby, showing that the Appellant/ Claimant was not having an electricity connection on the first floor of the said Jhuggi No. D-56 regarding which he is claiming allotment from DDA. The Passbook (Annexure-I) shows that the Appellant/Claimant had opened the account on 23.04.2009. 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 & a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor and further his name also does not appear in at least on the voter list of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The material placed on file shows the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor and further his name also does not appear in at least on the voter list of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cut- off date of 01.01.2015 and his name also does not appear in at least on the voter list of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey because he had never

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casted his vote. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/42.G/1417 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 619 of 2023

Date of Institution: 14.12.2022

Date of Order: 18.05.2023

Present: Appellant/ Claimant Bano Begum W/o Vaseer Ahmad @ Bashir Ahmad

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-76, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-76 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/108.G/1504 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 619 of 2023 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 16.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-76 was found to exist on the ground floor 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 07.11.2022 whereby the reasons for rejection is mentioned to be "Voter Card Not Verified" and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor as per the policy guidelines issued by DDA.

7. The statement of Appellant/Claimant, Bano Begum, has been recorded before us on 16.05.2023 wherein she has stated that she was married with Vaseer Ahmad @ Bashir

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Ahmad and having two sons, Danish & Mohd. Juber and two daughters; Farhin & Samrin. All the children are married. Both the daughters, Farheen & Simran are living in their respective matrimonial homes in Seelampur, Delhi. Danish is married with Naima and having one daughter Alia. Mohd. Juber is married with Nargis and having two daughters Sadia & Bushra. Both the sons, Danish & Mohd. Juber along with their respective families have been living on rent in Shastri Park, Delhi.

8. The Appellant/Claimant has stated that she along with her husband Vaseer Ahmad is living in the single storey Jhuggi No. D-76 and she has sought allotment from DDA but her claim her been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 619 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

9. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. D-76. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 16.05.2023 wherein she has stated that in the video clips, she along with her husband Vaseer Ahmad is seen in her single storey Jhuggi No. D-76 and roof made with asbestos sheet is seen and further her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey pucca Jhuggi No. D-76 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her husband was using the same for residential purpose.

10. Accordingly, we have no hesitation in holding that the single storey pucca Jhuggi No. D-76 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her husband was using the same for residential purpose.

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

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

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

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

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

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

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15. The Appellant/Claimant has tendered her two Voter ID Card (Annexure-A & Annexure-B), Aadhar Card (Annexure-C) & Voter List of the year 2009 (Annexure-K).

16. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards. The first Voter ID Card No. DL/03/035/252697 (Annexure-A) has been issued on 04.02.1995 and it was used by the Appellant/Claimant to cast vote in the election of 2009 as her name is reflected at Sl. No. 265 in the Voter List of the year 2009 (Annexure-K). The second Voter ID Card No. ARE 2610715 (Annexure-B) has been issued on 26.11.2022, much after the cut off date of 01.01.2015. It is pertinent to point that the Appellant/Claimant has not tendered the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also of the year of survey to show that she had ever used her Voter ID Cards (Annexure-A) to cast vote during the years 2012 to 2019. The Appellant/Claimant has categorically admitted that she had casted her vote in the election of 2009 and after that she had never used her franchise right. It seems that the first Voter ID Card No. DL/03/035/252697 (Annexure-A) was cancelled by the Election Commission because it was never practically used after 2009 and this explains the need of getting the second Voter ID Card (Annexure-B) issued by the Appellant/Claimant on 26.11.2022. Accordingly, legal inference can be drawn that she was not living in Bhoomiheen Camp during all these years and more specifically on the cut off date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 but her name does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey because she had never casted her vote. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. The Appellant/Claimant had tendered two Voter ID Cards (Annexure-D & Annexure-E), Aadhar Card (Annexure-F) & the ID Card issued by Delhi Administration (Annexure-G) of her husband Vaseer Ahmad, Electricity Bill (Annexure-H) and Ration Cards (Annexure-I & Annexure-J).

18. It is pointed out that Vaseer Ahmad, who is the husband of the present Appellant/Claimant, is also having two Voter ID Cards (Annexure-D & Annexure-E). The first Voter ID Card No. DL/03/035/252474 (Annexure-D) has been issued on 04.02.1995 and the second Voter ID Card No. ARE 2610939 (Annexure-E) has been issued on 26.11.2002. It is

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pointed out that no Voter List has been placed on file to show that Vaseer Ahmad had ever used these Voter ID Cards to cast his vote. The Electricity Bill (Annexure-H) shows that Vaseer Ahmad has taken the electricity connection on 06.06.2008. The Appellant/Claimant had tendered her old Ration Card (Annexure-I), which has been issued in the name of Vaseer Ahmad on 22.06.2002 and the name of the Appellant/Claimant has also been mentioned. The new Ration Card (Annexure-J) has been issued in the name of the Appellant/Claimant and the name of her husband Vaseer Ahmad is also mentioned but the date of issuance is not mentioned.

It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the name of the Appellant/Claimant does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The material placed on file shows that the name of the Appellant/Claimant does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the name of the Appellant/ Claimant does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

20. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/108.G/1504 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

18/5/2023

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

18/5/2023

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 508 of 2023

Date of Institution: 02.12.2022

Date of Order: 18.05.2023

Present: Appellant/Claimant Praveen Kumar S/o Dinesh Chand

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-202/A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-202/A was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/56.1/779 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 508 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 15.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-202/A was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Praveen, has been recorded before us on 15.05.2023 wherein he has stated that his grandparents, Ramesh Chand & Prem Wati, are having one son, Dinesh, who is married with Suman. Ramesh Chand had expired about 30 years ago. His parents Dinesh & Suman are having three sons Praveen, Vivek & Manoj and one daughter Rekha. All the children except Vivek are married. Rekha is living in her matrimonial home in Bhallabhgarh, Haryana. Manoj is married with Arti

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and having one daughter Shanvi and they are living on rent in Lakkadpur, Delhi. Praveen (Appellant/Claimant) is married with Kanchan and having one daughter Garima.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. D-202/A and it comprises of one room on each floor. The first floor of the Jhuggi No. D-202/A is not having an independent access from outside the gali but a wooden ladder is placed inside the room on the ground floor and the same is used for going to the upper floor.

9. The Appellant/Claimant has stated that the first floor is not having independent access from the gali but a wooden ladder has been placed inside the room on the ground floor for going to the upper floor. This shows that the first floor of the Jhuggi No. D-202/A is not separate and independent dwelling units because it is not having an independent access from the gali. However, in order to reach the first floor, one has to use the wooden ladder placed inside the room on the ground floor. Therefore, both the ground & first floors of Jhuggi No. D-27 are not separate and independent dwelling units but both are part and parcel of one dwelling unit of his grandmother Prem Wati on the ground floor bearing Jhuggi No. D-202/A for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first floor of the Jhuggis No. D-202/A is not having any independent access from the gali but in order to reach the upper floor, one has to use the wooden ladder placed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-202/A of his grandmother Prem Wati for all purposes.

11. The Appellant/Claimant has stated that his grandmother, Prem Wati along with her son Dinesh and his wife Suman as well as unmarried grandson Vivek is living on the ground floor of the said Jhuggi No. D-202/A and Prem Wati has sought allotment from DDA against the ground floor of the said Jhuggi NO. D-202/A but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 507 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

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12. The Appellant/Claimant has stated that he along with his wife Kanchan and daughter Garima is living on the first floor of the said Jhuggi No. D-202/A. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi No. D-202/A but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 508 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents Annexure- A to Annexure-K in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is pointed out that both the appeals bearing Appeal No. 507 of 2023 and Appeal No. 508 of 2023 shall be decided separately on their individual merit.

14. DDA has furnished the survey record along with 5 video clips pertaining to Jhuggi No. D-202/A. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 15.05.2023 wherein he has stated that in three video clips his grandmother, Premwati along with his mother Suman is seen on the ground floor and further her room & kitchen are also seen and further, a wooden ladder is also seen placed inside the room on the ground floor used for going to the upper floor is also clearly seen. In the next two video clips, the Appellant/Claimant Parveen is seen and his room & kitchen on the first floor are also seen.

15. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first floor of the Jhuggi No. D-202/A is not having any independent access from the gali but in order to reach the upper floors one has to use the wooden ladder placed inside the room on the ground floor. Therefore, the ground & first floor are not separate and independent dwelling units but they constitute one dwelling unit on the ground floor bearing Jhuggi No. D-202/A of Prem Wati for all purposes.

16. Thereby keeping in view that the ground & first floor of Jhuggi No. D-202/A are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-202/A of his grandmother, Prem Wati, for all purposes and the said Prem Wati has also sought allotment from DDA regarding the said Jhuggi No. D-202/A. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since Prem Wati has also sought allotment against Jhuggi No.

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D-202/A therefore the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-202/A. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. D-202/A of his grandmother, Prem Wati. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the 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-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/56.1/779 dated 07.11.2022.

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

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

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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.

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- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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

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

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

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

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

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

GIST OF THE POLICY

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

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

25. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1192764 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-J) & Voter List of the year 2019 (Annexure-K).

26. It is pointed out that the Voter ID Card No. ARE 1192764 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 760 in the Voter List of the year 2014 (Annexure-J) & at Sl. No. 943 in the Voter List of the year 2019 (Annexure-K) and in both the voter lists his Voter ID Card is mentioned to be bearing number ARE 1192764. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and & also in the year of survey.

27. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1600907 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Kanchan as well as the Pass Book of Bank of India (Annexure-F), Electricity Bill (Annexure-G) and Gas Bill (Annexure-I).

28. It is pointed out that the Voter ID Card No. ARE 1600907 (Annexure-D) has been issued on 16.01.2013. The Passbook (Annexure-K) shows that the account was opened

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by the Appellant/Claimant on 04.07.2019. The Electricity Bill (Annexure-G) shows that the connection has been taken by her grandmother Premwati on 13.05.2008 on the address of ground floor of Jhuggi No. D-202/A thereby showing that the Appellant/Claimant was not having a separate electricity connection on the first floor of Jhuggi No. D-202/A regarding which he is claiming allotment from DDA. The Gas Bill (Annexure-I) shows that it has been taken by his grandmother Premwati on 01.01.2003. It is pointed out that the abovementioned document is of no help to the Appellant/Claimant because as per our discussion above we have held that the ground & first floor of Jhuggi No. D-202/A are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-202/A of his grandmother, Prem Wati, for all purposes and the said Prem Wati has also sought allotment from DDA regarding the said Jhuggi No. D-202/A. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-202/A.

29. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-202/A regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-H), which has been issued in the name of his grandmother, Premwati on 22.02.2009 and the name of the family members including that of the present Appellant/Claimant has been mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-202/A regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further both the floors of Jhuggi No. D-202/A has also been found to be one dwelling unit bearing Jhuggi No. D-202/A of his grandmother, Prem Wati, for all purposes and the said Prem Wati has also sought allotment from DDA regarding the said Jhuggi No. D-202/A. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the

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DDA. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further both the floors of Jhuggi No. D-202/A has also been found to be one dwelling unit bearing Jhuggi No. D-202/A of his grandmother, Prem Wati, for all purposes and the said Prem Wati has also sought allotment from DDA regarding the said Jhuggi No. D-202/A and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

31. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/56.1/779 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 218 of 2023

Date of Institution: 23.11.2022

Date of Order: 18.05.2023

Present: Appellant/Claimant Rinku W/o Pappu D/o Om Prakash

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-107, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant had got the survey conducted against the Jhuggi No. D-107 and had also submitted the requisite documents against the said Jhuggi No. D-107. However, at the time of videography it was observed that the Appellant/ Claimant is not residing at Jhuggi No. D-107 but she was residing at another Jhuggi and got her documents made against the Jhuggi No. D-107 where she was earlier living as a tenant. The Appellant/ Claimant has tried to suppress the material facts and the videography procedure adopted by DDA clearly shows that Mithilesh is residing at Jhuggi No. D-107 and her name has already

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been considered for alternative allotment. As per policy, two allotments cannot be made in respect of single jhuggi. The Appellant/ Claimant has filed wrong claim and has tried to suppress the material facts and accordingly she does not fulfill the eligibility criteria as this was found to be a case of double allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/088.G/1442 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 218 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 29.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant has filed wrong claim and has tried to suppress the material facts and accordingly she does not fulfill the eligibility criteria as this was found to be a case of double allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Double Allotment Case"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant has filed wrong claim and has tried to suppress the material facts and accordingly does not fulfill the eligibility criteria as it is found to be a case of double allotment and also whether the Appellant/ Claimant was

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having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Rinku, has been recorded before us on 29.03.2023 wherein she has stated that her parents, Om Prakash & Mithlesh, are having three sons; Rajesh, Sushil & Neelu and one daughter Rinku. Both the parents Om Prakash & Mithlesh have died in the year 2017 & 2021 respectively. Rajesh is married with Meena and having two children Sheetal & Tapasya. Sushil is married with Asha and having three children Rahul, Amit & Anmol. Neelu is married with Arti and having two sons Kapil & Varun. Rinku (Appellant/Claimant) is married with Pappu and having four children, Neha Sneha Piyush & Ishant.

8. The Appellant/Claimant has stated that her family is having two Jhuggis bearing No. D-11A & D-107. His brother Sushil along with his family is living in the Jhuggi No. D-11A and regarding that DDA has made allotment in his favour. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that the second Jhuggi bearing No. D-107 is a double storey structure and it comprises of one room on the ground floor and two rooms on the first floor. His brother Rajesh along with his family is living in one of the rooms on the first floor of the said Jhuggi No. D-107 and regarding that DDA has made allotment in his favour. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that her brother Neelu along with his family & mother Mithlesh are liivng jointly. The family of Neely is living on the ground floor whereas Mithlesh till her death was living in the second room on the first floor of the said Jhuggi No. D-107 but she was having joint kitchen with her son Neelu. Regarding that dwelling unit her mother Mithlesh had sought allotment from DDA but Mithlesh has died in the year 2021 and accordingly survey was got conducted by Neelu on behalf of his mother Mithlesh (since deceased). DDA has made allotment in favour of Mithlesh and afterwards it has also sanctioned mutation in favour of her son Neelu against the ground floor of the said Jhuggi No. D-107.

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11. The Appellant/Claimant has stated that she was living in the second room on the first floor of Jhuggi No. D-107 along with her mother but after the death of her mother Mithlesh, she had shifted on rent to the Jhuggi of Dharmender in Navjeevan Camp. The Appellant/Claimant has claimed allotment from DDA against the first floor of Jhuggi bearing No. D-107. But her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 218 of 2023. The Appellant/Claimant has furnished documents, Annexure A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey record along with 10 video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 23.03.2023 wherein he has stated that in the video clips her brother Neelu is seen on the ground floor and making a statement that he is getting the survey conducted on behalf of his mother Mithlesh who has since died in 2021 and further, the room & kitchen of Neelu/Mithlesh are also seen. The Appellant/ Claimant has said that she has not got the survey conducted of the first floor of the Jhuggi bearing No. D-107 regarding which she is claiming allotment from DDA.

13. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that she was not living separately & independently on the first floor of Jhuggi No. D-107 because she has categorically admitted that she was living jointly with her mother Mithlesh till her death. Moreover, after the death of her mother Mithlesh the present Appellant/Claimant had shifted to live on rent in the Jhuggi of one Dharmender. Furthermore, the Appellant/Claimant has also not got the survey conducted against the first floor of Jhuggi No. D-107 regarding which she is claiming allotment from DDA thereby showing that in fact she was not living there.

14. The Appellant/Claimant has also categorically admitted that her mother Mithlesh was living jointly with the family of her son Neelu and their dwelling unit comprised of two rooms, i.e., one room on the ground floor & another room on the first floor of Jhuggi bearing No. D-107. They have made family arrangement by which Neelu & his family was living on the ground floor and Mithlesh was living on the first floor but they were having joint kitchen on the ground floor. It is also the admitted case that Neelu has not sought allotment from DDA but it was his mother Mithilesh, who had sought allotment from DDA against the said double story dwelling unit. Mithilesh had died in the year 2021. The survey on behalf of Mithilesh was got conducted by her son Neelu. DDA has

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made allotment in favour of Mithilesh against the said dwelling unit and after her death the mutation has also been sanctioned in favour of Neelu. Accordingly, two allotments are not permissible against the dwelling unit bearing Jhuggi No. D-107, in which Mothlesh & the family of her son Neelu were living, as per the guidelines issued by the DDA because DDA has already made allotment in favour of Mithlesh and mutation has been subsequently sanctioned in favour of her son Neelu. Since DDA has already made allotment in favour of Neelu/Mithlesh thereby treating the ground floor and one room on the first floor (against which the present Appellant/Claimant has also sought allotment from DDA) of Jhuggi No. D-107 to be a single dwelling unit, therefore, the present Appellant/Claimant is not entitled to claim allotment against the same dwelling unit. Accordingly, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015 Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/088.G/1442 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

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

GIST OF THE POLICY

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

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

23. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1190099 (Annexure-A), Aadhar Card (Annexure-B), the Pan Card (Annexure-F) and Voter List of the year 2012 (Annexure-K) & Voter List of the year 2019 (Annexure-L).

24. It is pointed out that the Voter ID Card No. ARE 1190099 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 378 in the Voter List of 2012 (Annexure-K) and at Sl. No. 726 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in the voter list of the year's 2012 & also in the year of survey.

25. The Appellant/Claimant has tendered her Ration Card (Annexure-C) issued on the Jhuggi No. D-107 in which the names of her family members have been recorded but

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the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. D-107 regarding which she is claiming allotment from DDA and further she was living jointly with her mother for some time and during that period she must have prepared documents including the ration card with an intention to misuse the same to claim allotment from DDA on the basis of wrong and false claim. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The Appellant/Claimant has tendered the Pass Book of Syndicate Bank (Annexure-D), Electricity Bill (Annexure-E) as well as Voter ID Card No. ARE 1572089 (Annexure-G) & Aadhar Card (Annexure-H) & the Pan Card (Annexure-I) of her husband and the Pass Book of PNB (Annexure-J).

27. It is pointed out that the Pass Book of Syndicate Bank (Annexure-D) shows that account has been opened on 29.06.2005. The Electricity Bill (Annexure-E) shows that the connection has been taken on 26.12.2014. The Voter ID Card No. ARE 1572089 (Annexure-G) has been issued on 18.09.2012 and the Pass Book of PNB (Annexure-J) shows that the account was opened on 03.12.2015. 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 DDA has already made allotment in favour of Neelu/Mithlesh thereby treating the ground floor and one of the room on the first floor (against which the present Appellant/Claimant has also sought allotment from DDA) of Jhuggi No. D-107 to be a single dwelling unit, therefore, the present Appellant/Claimant is not entitled to claim allotment against the same dwelling unit. Accordingly, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

28. The material placed on file shows that DDA has already made allotment in favour of Neelu/Mithlesh thereby treating the ground floor and one room on the first floor (against which the present Appellant/Claimant has also sought allotment from DDA) of Jhuggi No. D-107 to be a single dwelling unit, therefore, the present Appellant/Claimant is not entitled to claim allotment against the same dwelling unit. Accordingly, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. The documents,

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Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that DDA has already made allotment in favour of Neelu/Mithlesh thereby treating the ground floor and one room on the first floor (against which the present Appellant/Claimant has also sought allotment from DDA) of Jhuggi No. D-107 to be a single dwelling unit, therefore, the present Appellant/Claimant is not entitled to claim allotment against the same dwelling unit because two allotments are not permissible against the dwelling unit bearing Jhuggi No. D-107, in which Mithlesh & the family of her son Neelu were living, as per the guidelines issued by the DDA because DDA has already made allotment in favour of Mithlesh and mutation has been subsequently sanctioned in favour of her son Neelu. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/088.G/1442 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 8/5/2023	(Satish Ahlawat) 18/5/2023	(Rachna Tiwary) 18/5/2023
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

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

Appeal No: 573 of 2023

Date of Institution: 06.12.2022

Date of Order: 17.05.2023

Present: Appellant/Claimant Shiv Kumar S/o Amarnath

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-27, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-27 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/63/13.1/1364 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 573 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 15.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-27 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Shiv Kumar, has been recorded before us on 15.05.2023 wherein he has stated that his parents, Amar Nath & Sunita, are having two

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sons, Shiv Kumar & Raju and one daughter Rinki. Amar Nath has died on 25.08.2022 and his death certificate is Annexure-D. Rinki is married with Sumit and she is living with her mother Sunita in Bhoomiheen Camp. Raju is married with Kiran and having one son Aarush. Shiv Kumar (Appellant/Claimant) is married with Sapna and having one son Rudra.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. D-27, which comprises of one room on each floor. The first and the second floors are not having independent access from the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. This shows that the first and the second floors of the Jhuggi No. D-27 are not separate and independent dwelling units because they are not having an independent access from the gali. However, in order to reach the first and the second floors, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, both the first and the second floors of Jhuggi No. D-27 are not separate and independent dwelling units but both are part and parcel of one dwelling unit of his mother Sunita on the ground floor bearing Jhuggi No. D-27 for all purposes.

9. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. D-27 are not having any independent access from the gali but in order to reach the upper floors, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the ground, first & the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-27 of his mother Sunita for all purposes.

10. The Appellant/Claimant has stated that her mother Sunita along with the family of her daughter Rinki is living on the ground floor of Jhuggi No. D-27 and regarding that DDA has made allotment in favour of his mother Sunita. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Raju along with his wife Kiran & son Arush is living on the second floor of the said Jhuggi No. D-27 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 572 of 2022 before the Appellate Authority for redressal. These facts are not disputed by the DDA.

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12. The Appellant/Claimant has stated that he along with his wife Sapna & son Rudra is living on the first floor of the said Jhuggi No. D-27. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-27 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 573 of 2023 before the Appellate Authority. 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.

13. It is pointed out that both the appeals bearing Appeal No. 572 of 2023 and Appeal No. 573 of 2023 shall be decided separately on their individual merit.

14. DDA has furnished the survey record along with sixteen video clips pertaining to Jhuggi No. D-27. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 15.05.2023 wherein he has stated in seven video clips his mother, Sunita, is seen on the ground floor of the Jhuggi No. D-27 and her room & kitchen are also seen and further a pucca staircase constructed inside the room on the ground floor and going to the upper floor is also clearly seen. In the next six video clips, Shiv Kumar (Appellant/Claimant) is seen on the first floor and his room & kitchen are also seen. Further, the remaining three video clips pertain to the second floor in which Raju is seen and his room is also seen but no kitchen is seen on the second floor.

15. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-661 are not having any independent access from the gali but in order to reach the upper floors one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes.

16. Thereby keeping in view that the first and the second floors of Jhuggi No. D-27 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes and DDA has already made allotment in favour of his mother, Sunita, regarding the said Jhuggi No. D-27. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the

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DDA. Since DDA has already made allotment in favour of Sunita, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-27. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. D-27 of his mother, Sunita. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/63/13.1/1364 dated 07.11.2022.

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

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

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

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

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

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- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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

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

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

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

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

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

GIST OF THE POLICY

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

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

25. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1187640 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2014 (Annexure-F) & Voter List of the year 2019 (Annexure-G).

26. It is pointed out that the Voter ID Card No. ARE 1187640 (Annexure-A) has been issued on 03.03.2022. However, the name of the Appellant/Claimant appears at Sl. No. 339 in the Voter List of the year 2014 (Annexure-F) & at Sl. No. 539 in the Voter List of the year 2019 (Annexure-G) and in both the voter lists his Voter ID Card is mentioned to be bearing number ARE 1187640. It shows that the original Voter ID Card No. ARE 1187640 must have been issued much earlier to 03.03.2022 as it has been reflected in the Voter List of the year 2004 (Annexure-F) & Voter List of the year 2019 (Annexure-G) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 03.03.2022 but the original was in existence even in the year 2014 and that is why it has been reflected in the Voter List of the year 2014 (Annexure-F) and also in the Voter List of the year 2019 (Annexure-G). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name

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also appears in at least on the voter list of the year's 2014 and & also in the year of survey.

27. The Appellant/Claimant has tendered the Electricity Bill (Annexure-E) thereby showing that the electricity connection has been taken by his father Amar Nath on 30.05.2008 on the address of ground floor of Jhuggi no. D-27 thereby showing that the Appellant/Claimant was not having the electricity connection in his name on the address of the first floor of Jhuggi No. D-27 regarding which he is claiming allotment from DDA. It is pointed out that the abovementioned document is of no help to the Appellant/Claimant because as per our discussion above we have held that the first and the second floors of Jhuggi No. D-27 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes and DDA has already made allotment in favour of his mother, Sunita, regarding the said Jhuggi No. D-27. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-27.

28. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-27 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-H), which has been issued in the name of his mother Sunita on 28.11.2014. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-27 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.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further all the three floors of Jhuggi No. D-27 has also been found to be one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes and DDA has already made allotment in favour of Sunita (mother of Appellant/Claimant) regarding the said Jhuggi No. D-27. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-H, are of no help to the

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Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. D-27 has also been found to be one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes and DDA has already made allotment in favour of Sunita (mother of Appellant/Claimant) regarding the said Jhuggi No. D-27 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/13.1/1364 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 572 of 2023

Date of Institution: 06.12.2022

Date of Order: 17.05.2023

Present: Appellant/Claimant Raju Yadav S/o Amarnath

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-27, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-27 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/63/013.1-A/1363 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 572 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 15.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-27 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Raju Yadav, has been recorded before us on 15.05.2023 wherein he has stated that his parents, Amar Nath & Sunita, are having two

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sons, Shiv Kumar & Raju and one daughter Rinki. Amar Nath has died on 25.08.2022 and his death certificate is Annexure-E. Rinki is married with Sumit and she is living with her mother Sunita in Bhoomiheen Camp. Shiv Kumar is married with Sapna and having one son Rudra. Raju (Appellant/Claimant) is married with Kiran and having one son Aarush.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. D-27 which comprises of one room on each floor. The first and the second floors are not having independent access from the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. This shows that the first and the second floors of the Jhuggi No. D-27 are not separate and independent dwelling units because they are not having an independent access from the gali. However, in order to reach the first and the second floors, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, both the first and the second floors of Jhuggi No. D-27 are not separate and independent dwelling units but both are part and parcel of one dwelling unit of his mother Sunita on the ground floor bearing Jhuggi No. D-27 for all purposes.

9. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. D-27 are not having any independent access from the gali but in order to reach the upper floors, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the ground, first & the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-27 of his mother Sunita for all purposes.

10. The Appellant/Claimant has stated that his mother Sunita along with the family of her daughter Rinki is living on the ground floor of Jhuggi No. D-27 and regarding that DDA has made allotment in favour of his mother Sunita. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Shiv Kumar along with his wife Sapna & son Rudra is living on the first floor of the said Jhuggi No. D-27 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 573 of 2022 before the Appellate Authority for redressal. These facts are not disputed by the DDA.

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12. The Appellant/Claimant has stated that he along with his wife Kiran & son Arush is living on the second floor of the said Jhuggi No. D-27. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. D-27 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 572 of 2023 before the Appellate Authority. 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.

13. It is pointed out that both the appeals bearing Appeal No. 572 of 2023 and Appeal No. 573 of 2023 shall be decided separately on their individual merit.

14. DDA has furnished the survey record along with sixteen video clips pertaining to Jhuggi No. D-27. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 15.05.2023 wherein he has stated in seven video clips his mother, Sunita, is seen on the ground floor of the Jhuggi No. D-27 and her room & kitchen are also seen and further a pucca staircase constructed inside the room on the ground floor and going to the upper floor is also clearly seen. In the next six video clips, Shiv Kumar is seen on the first floor and his room & kitchen are also seen. Further, the remaining three video clips pertain to the second floor in which Raju (Appellant/Claimant) is seen and his room is also seen but no kitchen is seen on the second floor.

15. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. B-661 are not having any independent access from the gali but in order to reach the upper floors one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes.

16. Thereby keeping in view that the first and the second floors of Jhuggi No. D-27 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes and DDA has already made allotment in favour of his mother, Sunita, regarding the said Jhuggi No. D-27. Accordingly, two

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allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Sunita, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-27. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the second floor because it is part & parcel of single dwelling unit bearing Jhuggi No. D-27 of his mother, Sunita. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the 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-I, 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. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/63/013.1-A/1363 dated 07.11.2022.

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

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

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

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

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

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

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

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allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

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

22. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

23. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

24. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore,

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the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

25. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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

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

GIST OF THE POLICY

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

28. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

29. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

30. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and

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

31. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1554708 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2014 (Annexure-H) & Voter List of the year 2019 (Annexure-I).

32. It is pointed out that the Voter ID Card No. ARE 1554708 (Annexure-A) has been issued on 11.02.2014, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 69 in the Voter List of the year 2014 (Annexure-H) & at Sl. No. 158 in the Voter List of the year 2019 (Annexure-I) and in both the voter lists his Voter ID Card is mentioned to be bearing number ARE 1554708. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and & also in the year of survey.

33. The Appellant/Claimant has tendered his Driving License (Annexure-D) and the Electricity Bill (Annexure-F). The Driving License (Annexure-D) shows that it has been issued in the name of the Appellant/Claimant on 23.03.2013. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father Amar Nath on 30.05.2008 on the address of ground floor of Jhuggi no. D-27 thereby showing that the Appellant/Claimant was not having the electricity connection in his name on the address of the second floor of Jhuggi No. D-27 regarding which he is claiming allotment from DDA. It is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because as per our discussion above we have held that the first and the second floors of Jhuggi No. D-27 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes and DDA has already made allotment in favour of his mother, Sunita, regarding the said Jhuggi No. D-27. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-27

34. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. D-27 regarding which he is claiming allotment from DDA. The Appellant/Claimant has

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tendered the joint Ration Card (Annexure-G), which has been issued in the name of his mother Sunita on 28.11.2014. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. D-27 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. D-27 has also been found to be one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes and DDA has already made allotment in favour of Sunita (mother of Appellant/Claimant) regarding the said Jhuggi No. D-27. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. D-27 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. D-27 has also been found to be one dwelling unit bearing Jhuggi No. D-27 of Sunita for all purposes and DDA has already made allotment in favour of Sunita (mother of Appellant/Claimant) regarding the said Jhuggi No. D-27 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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bearing No. 385/63/013.1-A/1363 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 363 of 2023

Date of Institution: 29.11.2022

Date of Order: 17.05.2023

Present: Appellant/ Claimant Suman W/o Rohtash D/o Chander Bose

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No.D-198, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-198 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/50.1/774 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 363 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 04.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-198 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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

7. The statement of the Appellant/Claimant, Suman, has been recorded before us on 04.05.2023 wherein she has stated that her in-laws, Mahender & Sheela, are having four sons; Rohtash, Om Parkash, Satish & Parmod and one daughter, Meena. All the children are married. Meena in living in her matrimonial home in Noida. Om Prakash, Satish & Parmod along with their respective families are living on rent in Sangam Vihar, Delhi. Rohtash is married with Suman (Appellant/Claimant) and having one son Deepak.

8. The Appellant/Clamant has stated that her in-laws, Mahender & Sheela, are having a double storey Jhuggi No. D-198, which comprises of one room on each floor. The Appellant/Clamant has stated that her in-laws, Mahender & Sheela, are living on the ground floor of the said Jhuggi No. B-198 and regarding that DDA has made allotment in favour of her mother-in-law Sheela. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that she along with her husband Rohtash and son Deepak is living on the first floor of Jhuggi No. D-198. The Appellant/Claimant has claimed allotment from DDA against the first floor of Jhuggi No. D-198 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 363 of 2023. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. D-198. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 04.05.2023 wherein she has stated that in three video clips her mother-in-law Sheela is seen on the ground floor of the Jhuggi No. D-198 and her room & kitchen are also seen. The remaining three videos pertain to the first floor of the Jhuggi No. D-198 in which she (Suman-Appellant/Claimant) is seen and her room & kitchen are also seen. Further, a pucca staircase going from the ground floor to the first floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-198 was in existence in the Bhoomiheen Camp on the

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cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-198 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

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

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/50.1/774 dated 07.11.2022.

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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

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

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

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

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

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

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

16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment

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

GIST OF THE POLICY

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

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

20. The Appellant/Claimant has tendered her Voter ID Card bearing No. ARE 1347269 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-E), Voter List of the year 2014 (Annexure-K) & Voter List of the year 2019 (Annexure-L).

21. It is pointed out that the Voter ID Card Number ARE 1347269 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant also appears at Sl. No. 221 in the Voter List of 2014 (Annexure-K) and at Sl. No. 394 in the Voter List of the year 2019 (Annexure-L). Therefore, we

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have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

22. 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-198 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-I) issued in the name of her mother-in-law Sheela but the name of the Appellant/Claimant is not mentioned and further the date of issuance of the Ration Card is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-198 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.

23. The Appellant/Claimant has tendered the Voter ID Card no. ARE 1192566 (Annexure-C), Aadhar Card (Annexure-D) & PAN Card (Annexure-F) of her husband Rohtash, Passbook of the Union Bank Of India (Annexure-G), Electricity Bill (Annexure-H) and Caste Certificate (Annexure-J).

24. It is pointed out that the Voted ID Card No. ARE 1192566 (Annexure-C) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Passbook (Annexure-G) shows that the Appellant/Claimant has opened the account on 11.11.2012. The Electricity Bill shows that the Electricity Connection has been taken by her father-in-law, Mahender on 31.05.2008 on the ground floor of the Jhuggi No. D-198 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. D-198 regarding which she is claiming allotment from DDA. The Caste Certificate (Annexure-J) has been issued on 25.03.2010. 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against

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the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/50.1/774 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 160 of 2022

Date of Institution: 23.11.2022

Date of Order: 17.05.2023

Present: Appellant/ Claimant Sheela W/o Virpal D/o Chander Pal

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

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-222, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. D-222 was found to be used for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/39.G/768 dated 07.11.2022

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to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 160 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 15.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-O, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-222 was found to be used for commercial purposes and accordingly she 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 her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Commercial"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. D-222 was found to be exclusively used for commercial purposes and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

7. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-O, in support of her claim and prayed that DDA be directed to make allotment in her favour. It is argued on behalf of the Appellant/ Claimant that she fulfills the criteria and possesses all the requisite documents. The Jhuggi bearing No. D-222 has been wrongly

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found to be used solely for commercial purposes because she along with his family was using it for residential-cum-commercial purposes on the cutoff date of 01.01.2015 and she has furnished documents in proof of residence.

8. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and her name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she had made wrong claim in collusion with his family members to claim alternate allotment from DDA in spite of the fact that she was not living in Jhuggi No. D-222 regarding which she has claimed allotment from DDA but instead on the cutoff date of 01.01.2015 she was found to be solely using the said Jhuggi for commercial purposes by running a shop for doing carpentry work from there and further she has come forward with a wrong & false story. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/39.G/768 dated 07.11.2022.

9. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

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

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

<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."

10. The statement of the Appellant/ Claimant, Sheela, has been recorded before us on 15.05.2023, wherein she has stated that she was married with Virpal and having two children Avinash & Rakhi. Both the children are unmarried and living jointly with them.

11. The Appellant/ Claimant has stated that her family is having a single storey Jhuggi No. D-222 and it comprises of one room. They are facing space constraint. There is another Jhuggi No. D-202 of one Imran situated on the backside of their Jhuggi No. D-222 and the same was been taken by them on rent. The Appellant/ Claimant has stated that her husband Virpal is doing "Carpentry Repairing Job" on the platform just outside of the said Jhuggi No. D-222 and further her husband as well as her son Avinash is also using the Jhuggi No. D-222 for sleeping purposes whereas the Appellant/ Claimant & her daughter Rakhi are sleeping in the said Jhuggi No. D-202 of Imran.

12. The Appellant/ Claimant has sought allotment from DDA against the Jhuggi No. D-222 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 160 of 2022 for redressal. The Appellant/Claimant has tendered documents, Annexure- A to Annexure O, and prayed that DDA be directed to make allotment in her favour.

13. DDA has furnished the survey records along with one video clip. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 15.05.2023 wherein she has stated that in that video clip she along with her husband Virpal, is seen standing in front of their Jhuggi No. D-222 and she is also seen holding a slate in her hand on which "Seela D-222 G- (SHOP)" has been written. Further in that video clip, neither the Chaukhat (door frame) nor the door is seen but a polythene is seen to have been wrapped to be used for closing the gate of the said Jhuggi No. D-222 and furthermore, the front wall is also seen to have been made with bamboos.

14. It is also pointed out that the Appellant/Claimant has tendered a pen drive (Annexure-N) which has been saved along with the video clips prepared by the survey team of DDA and that was also played before the Appellant/Claimant when her statement was

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recorded before us on 15.05.2023 wherein she has stated that in that video clip her single storey Jhuggi is seen and bamboos are also seen lying outside and further her room & kitchen are also seen and furthermore the front wall is also seen to have been made by bamboo.

15. Here it is pointed out that the video furnished in the pen drive (Annexure-N) by the present Appellant/Claimant was prepared just few days ago and that has provided ample time & opportunity to her to manipulate and change the interiors to create evidence to support her claim. As already pointed out the Appellant/Claimant has categorically stated that in addition to Jhuggi No. D-222 they have taken another Jhuggi No. D-202 of Imran on rent and her husband Virpal as well as her son Avinash has been using the Jhuggi No. D-222 for sleeping purposes whereas the Appellant/ Claimant & her daughter Rakhi are sleeping in the said Jhuggi No. D-202 of Imran but in this video the Appellant/Claimant has tried in futility to show that Jhuggi No. D-222 was used for living as well as for cooking purposes thereby contradicting her own stand because if the entire family was living & cooking food in Jhuggi No. D-222 then there was no need for them to take another Jhuggi No. D-202 on rent.

16. It is pointed out that the video furnished by DDA shows that the videography of inside of Jhuggi No. D-222 was not prepared. The Appellant/Claimant has specifically stated that she cannot explain as to why she had not got the videography conducted inside the said Jhuggi No. D-222. Had the Jhuggi No. D-222 put to mixed used for residential-cum-commercial purposes then in that eventuality the Appellant/Claimant would have insisted for getting the inside of that Jhuggi video graphed by the survey team and if there was any lapse/omission/default on part of the survey team then complaint would have been made to the concerned higher DDA authorities. But the Appellant/Claimant did nothing of this sort. This shows that the Appellant/Claimant has intentionally did not get inside of the Jhuggi No. D-222 video graphed because she wanted to hide the true facts that the said Jhuggi was used solely for commercial purposes. As already pointed out in the video prepared by the survey team the Appellant/Claimant is seen holding a slate in her hand on which "Seela D-222 G-(SHOP)" has been written and this shows that admission on her part that the said Jhuggi was used solely for commercial purposes as shop.

17. Furthermore, it is also pertinent to point out that in the video clip prepared by the survey team at the time of survey neither the Chaukhat (door frame) nor the door is

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seen but a polythene is seen to have been wrapped to be used for closing the gate of the said Jhuggi No. D-222 and furthermore the front wall is also seen to have been made with bamboos thereby showing that this Jhuggi was used for doing "Carpentry Repairing Job" by the husband of the present Appellant/Claimant.

18. Furthermore, both the Appellant/Claimant and her husband are seen standing outside the gate of Jhuggi No. D-222 and further the Appellant/Claimant is also seen holding a slate in her hand on which "Seela D-222 G- (SHOP)" has been written. This is an admission on part of the Appellant/Claimant that the said Jhuggi No. D-222 was solely used as shop because they were living in the rented Jhuggi No. D-202 of Imran and this explain as to why they have not allowed the survey team to conduct videography conducted of inside of their Jhuggi No. D-222. This shows that the said Jhuggi No. D-222 was not put to mixed used for residential-cum-commercial but it was used solely for commercial purposes.

19. The survey records as well as the video clip furnished by DDA as well as the pen drive (Annexure-N) furnished by the present Appellant/Claimant shows that the Jhuggi No. D-222 is exclusively used by Virpal, who is the Appellant/Claimant, for commercial purposes for doing "Carpentry Repairing Job". Further, in the video she is clearly seen to be standing outside her shop and holding a slate on which "Seela D-222 G- (SHOP)" is written. Further, the Appellant/Claimant has specifically admitted that she has been living on rent in Jhuggi No. D-202 of Imran thereby showing that the Jhuggi No. D-222 is not used for both residential and commercial purposes but it is solely used by the Appellant/Claimant for commercial purposes for doing "Carpentry Repairing Job" by her husband, Virpal.

20. The condition contained in Part–B Paras No. 8 & 9 of DDA policy detailed in Para no. 9 above runs as under:

"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."

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21. As per our discussion above, the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Jhuggi No. D-222 has been used by the Appellant/Claimant for running a shop for doing "Carpentry Repairing Job" by her husband, Virpal and on the cutoff date of 01.01.2015 it was not put to mixed use as commercial/residential or exclusively for residential purposes but it was solely used by the Appellant/Claimant for commercial purposes for doing "Carpentry Repairing Job" by her husband, Virpal. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. The bare perusal of the Policy detailed in Para no. 9 above shows that for claiming allotment the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. Now we shall first appraise the material placed on file to determine the eligibility of the present Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey.

24. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-O) and Aadhar Card (Annexure-B).

25. It is pointed out that both the Voter ID Cards (Annexure-A & Annexure-O) are bearing the same number CXY 1080506. The first Voter ID Card (Annexure-A) bearing no. CXY 1080506 has been issued on 09.03.2002 whereas the second Voter ID Card (Annexure-O) has been issued on 27.10.2008. Both the Voter ID Cards (Annexure-A & Annexure-

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O) have been issued much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 640 in the Voter List of the year 2012 (Annexure-I), at Sl. No. 640 in the Voter List of 2013 (Annexure-J), at Sl. No. 782 in the Voter List of 2014 (Annexure-K), at Sl. No. 853 in the Voter List of 2015 (Annexure-L) and at Sl. No. 965 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. The Appellant/Claimant has tendered the Aadhar Card (Annexure-C), ID Card of Delhi Administration (Annexure-D), PAN Card (Annexure-E) & Voter ID Card No. ARE 1193465 (Annexure-H) of her husband Virpal as well as the Electricity Bill (Annexure-F) & Ration Card (Annexure-G).

27. It is pointed out that the Voter ID Card No. ARE 1193465 (Annexure-H) has been downloaded from internet but the date of issuance is not mentioned. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by her husband on 22.06.2008. The Appellant/Claimant has tendered her Ration Card (Annexure-G) in which the name of the family members has been mentioned but the date of issuance is not mentioned. But it is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Jhuggi No. D-222 has been used by the Appellant/Claimant for running a shop for doing carpentry repairing job by her husband, Virpal and on the cutoff date of 01.01.2015 it was not put to mixed use as commercial/residential or exclusively for residential purposes but it is solely used by the Appellant/Claimant for commercial purposes for doing carpentry repairing job by her husband, Virpal. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file as well as the statement of the Appellant/ Claimant shows that on the cutoff date of 01.01.2015 the Jhuggi No. D-222 was not put to mixed use as commercial/residential or exclusively for residential purposes but it was solely used

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by the Appellant/Claimant for commercial purposes for doing "Carpentry Repairing Job" by her husband, Virpal. The documents, Annexure-A to Annexure-O, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, as per our discussion above we have no hesitation in holding that on the cutoff date of 01.01.2015 the Jhuggi No. D-222 was not put to mixed use as commercial/residential or exclusively for residential purposes but it was solely used by the Appellant/Claimant for commercial purposes for doing "Carpentry Repairing Job" by her husband, Virpal. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly he is not entitled for alternate allotment.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/39.G/768 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 362 of 2023

Date of Institution: 23.11.2022

Date of Order: 16.05.2023

Present: Appellant/ Claimant Sher Singh S/o Ratan Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No.C-302, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-302 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/0019.G/1553 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 362 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 04.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-302 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Sher Singh, has been recorded before us on 04.05.2023 wherein he has stated that his parents, Rattan Lal & Baby, are having two

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sons; Vinay & Sher Singh and one daughter Durga. Vinay & Durga are unmarried and they are living with their parents. Sher Singh (Appellant/Claimant) is married with Neelam but they are not having any issues.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-302 and it comprises of two rooms on the ground floor and one room on the first floor. His parents, Rattan Lal & Baby, and their unmarried children Vinay & Durga are living in one of the rooms on the ground floor and also on the first floor and regarding that DDA has made allotment in favour of his mother Baby. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Neelam is living in the second room on the ground floor of the Jhuggi No. C-302 but due to some mistake he had submitted representation for claiming allotment from DDA for the first floor and due to further mistake, he has got the survey conducted on the first floor in spite of the fact that he is living on the ground floor. His claim has been rejected by Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 362 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.05.2023 wherein he has stated that one video pertains to the ground floor in which Baby, mother of the Appellant/Claimant, is seen and her room & kitchen are also seen. In the second video, the Appellant/Claimant is seen on the first floor and his room & kitchen are seen and a pucca staircase going from the ground to the first floor is seen and the Appellant/Claimant is seen holding a slate in his hand on which "Sher Singh, C-302/F" has been written.

11. It is pointed out that the survey of the second room on the ground floor was not conducted. It is also pertinent to point out that the records placed on file by DDA show that the Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-302 but it seems that the Appellant/Claimant has changed his stand when his statement was recorded before us on 04.05.2023 thereby taking a somersault and he has started claiming that he has been living on the ground floor.

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Had it been so then he would have made representation to the DDA for claiming allotment against the ground floor of Jhuggi No. C-302 and not against the first floor of the said Jhuggi, which he has done in the present case. This cannot be believed that due to some mistake he had applied to seek allotment from DDA against the first floor of Jhuggi No. C-302 even though he was living on its ground floor. Moreover, had it been a mistake the same would have been rectified by the Appellant/Claimant by getting the survey conducted of the second room on the ground floor but instead he has got the survey conducted of the first floor of the Jhuggi No. C-302 and as mentioned above, he is holding a slate on which "Sher Singh C-302/F" is written. The material placed on file clearly shows that the Appellant/Claimant has concocted a wrong & false story that he has been living on the ground floor out of lust & greed to claim allotment from DDA on the basis of false claim.

12. As mentioned above, the Appellant/Claimant has categorically stated that his family is having a double storey Jhuggi No. C-302 and it comprises of two rooms on the ground floor and one room on the first floor and his parents, Rattan Lal & Baby, along with their unmarried children, Vinay & Durga, are living in one of the rooms on the ground floor and also on the first floor and regarding that DDA has made allotment in favour of his mother Baby. The admission of the is a clincher piece of evidence and shows that the dwelling unit of his parents comprised of part of ground floor & the entire first floor and DDA has already made allotment to Baby against that dwelling unit. Therefore, the Appellant/Claimant is not entitled to claim allotment against the first floor of the Jhuggi No. C-302 and it explains as to why the Appellant/Claimant has tried to change his story thereby claiming that instead of first floor he has claimed allotment against the ground floor of the said Jhuggi No. C-302. It seems that the Appellant/Claimant along with his wife Neelam and two of his siblings, Vinay & Durga, have been living jointly with his parents but they have conspired to get maximum allotments from DDA by hook or crook and that is why the Appellant/Claimant has been changed his story in order to grab allotment on the basis of wrong claim.

13. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-352 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was not living separately and independently on the first floor of the

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said Jhuggi No. C-352 but he was giving jointly with his parents. The entire double story Jhuggi No. C-352 comprises of a single dwelling unit and regarding that DDA has already made allotment in favour of his mother Baby and accordingly the Appellant/Claimant is not entitled to claim allotment from DDA because two allotments against the same dwelling unit are not permissible as per the policy guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

14. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/0019.G/1553 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**

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1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.

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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming

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allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1604320 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2013 (Annexure-K) & Voter List of the year 2019 (Annexure-L).

23. It is pointed out that the Voter ID Card No. ARE 1604320 (Annexure-A) has been issued on 18.01.2013, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 651 in the Voter List of 2013 (Annexure-K) and at Sl. No. 250 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the

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cut off date of 01.01.2015 and his name also appears in in the voter list of the year's 2013 & also in the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-302 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-J), which has been issued on 22.08.2002 in the name of his father, Ratan Lal, and the names of the family members, including that of the present Appellant/Claimant, has been recorded. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-302 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Driving License (Annexure-D) as well as the Voter ID Card (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Neelam and Electricity Bill (Annexure-H) and Pass Book of SBI (Annexure-I).

26. It is pointed out that the Driving License (Annexure-D) has been issued on 20.01.2015, much after the cut off date of 01.01.2015. The Voter ID Card (Annexure-E) has been issued on 14.12.2021, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the connection has been taken by his father Ratan Lal on 31.05.2008 on the ground floor of the Jhuggi No. C-302 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. C-302 regarding which he is claiming allotment from DDA. The Pass Book of SBI (Annexure-I) shows that the account has been opened on 07.04.2015, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that

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the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2013 and also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/0019.G/1553 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 355 of 2023

Date of Institution: 29.11.2022

Date of Order: 16.05.2023

Present: Appellant/Claimant Rajesh Kanaujia S/o Hari Ram

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-661, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-661 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/36.G/693 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 355 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 24.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-34 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Rajesh Kanaujia, has been recorded before us on 24.04.2023 wherein he has stated that his parents, Hari Ram & Amravati, are having one son Rajesh (Appellant/Claimant) and three daughters Kailash, Anita & Savita. Hari Ram had expired in the year 2020. All the children are married. Kailash and Anita are living in their respective matrimonial homes in Tughalaqabad, Delhi. Savita is married with Monu but they have divorced and after that Savita is living with

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her parents in Bhoomiheen Camp. Rajesh is married with Bhagwati and having two children, Harsh & Ritika.

8. The Appellant/Claimant has stated that his parents, Hari Ram & Amravati, are having a double story Jhuggi No. B-661 and it comprises of two portions on the ground floor and one room on the first floor. The outer portion of the ground floor is used as kitchen and rear portion is used as room for living purposes by his mother, Amrawati along with the family of his sister Savita and further, a pucca staircase has been constructed in the outer portion on the ground floor for going to the room on the first floor. This shows that the first floor of the Jhuggi No. B-661 is not a separate and independent dwelling unit because it is not having an independent access from the gali. However, in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, both the floors of Jhuggi No. B-661 are not separate and independent dwelling unit but both are part and parcel of one dwelling unit of Amrawati on the ground floor bearing Jhuggi No. B-661 for all purposes.

9. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first floor of the Jhuggis No. B-661 is not having any independent access from the gali but in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-661 of Amrawati for all purposes.

10. The Appellant/Claimant has stated that his parents, Hari Ram (up to his death in 2020) & Amravati, along with their unmarried daughter Savita is living on the ground floor of Jhuggi No. B-661 and regarding that DDA has made allotment in favour of his mother Amravati. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Bhagwati & children are living on the first floor of Jhuggi No. B-661 but his claim has been rejected by DDA and aggrieved by the same, he has filed the present Appeal No. 355 of 2023. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with sixteen video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.04.2023 wherein he has stated that in the Video clips the Jhuggi No. B-661 is

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clearly seen to be a double storey structure and further, the ground floor is also seen to have been comprises of two portions and front portion is seen to have been used as the kitchen and the rear portion for residential purposes and further a pucca staircase going from inside the front portion of the ground floor and going to the first floor is clearly seen. Thus both the floors of the Jhuggi No. B-661 are clearly seen to be a part & parcel of the same dwelling unit. Further, in 12 video clips Amravati along with her daughter Savita is also seen in the video clips of the ground floor and her room and kitchen and the pucca staircase is also seen. In the remaining four videos, the pucca staircase going from inside the room on the ground floor to the first floor is seen and further, the Appellant/Claimant Rajesh is also seen on the first floor and his room & kitchen is also seen.

13. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the ground & first floors of the Jhuggis No. B-661 are not having any independent access from the gali but in order to reach the first floor one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-661 of Amrawati for all purposes.

14. Thereby keeping in view that the ground & first floors of Jhuggi No. B-661 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-661 of Amrawati for all purposes and DDA has already made allotment in favour of his mother, Amrawati, regarding the said Jhuggi No. B-661. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Amrawati, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. B-661. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. B-661 of his mother, Amrawati. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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15. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/10/36.G/693 dated 07.11.2022.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on

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license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

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18. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

20. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

21. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year' s 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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22. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & 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 first floor as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered her Voter ID Card No. CXY 1072032 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2009 (Annexure-M), Voter List of the year 2012 (Annexure-K) & Voter List of the year 2019 (Annexure-L).

24. It is pointed out that the Voter ID Card No. CXY 1072032 (Annexure-A) has been issued on 06.03.2002, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1258 in the Voter List of 2009 (Annexure-M), at Sl. No. 1060 in the Voter List of the year 2012 (Annexure-K) & at Sl. No. 1172 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-661 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-661 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his Driving License (Annexure-D), Electricity Bill (Annexure-E) as well as the Voter ID Card No. CXY 1070861 (Annexure-F), the Aadhar Card (Annexure-G) & Pan Card (Annexure-H) of his wife Bhagwati and the Caste Certificate (Annexure-I) & the Pass Book of Union Bank (Annexure-J).

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27. It is pointed out that the Driving License (Annexure-D) has been issued on 12.03.2008. The Electricity Bill (Annexure-E) shows that the connection has been taken in the name of his mother Amrawati on the ground floor of Jhuggi No. B-661 on 31.05.2008 and accordingly the Appellant/Claimant was not having electricity connection on the first floor of Jhuggi No. B-661 regarding which he is claiming allotment from DDA. The Voter ID Card No. CXY 1070861 (Annexure-F) has been issued on 22.01.2020. The Caste Certificate (Annexure-I) has been issued on 18.03.2000 and the Pass Book of Union Bank (Annexure-J) shows that the account was opened on 29.09.2010. 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 her favour to claim allotment from DDA because as per our discussion above the ground & first floor of Jhuggi No. B-661 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-661 of Amrawati for all purposes and DDA has already made allotment in favour of her father, Amrawati, regarding the said Jhuggi No. B-661. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Amrawati, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. B-661. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further the ground & first floor of the Jhuggi No. B-661 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-661 of Amrawati for all purposes and DDA has already made allotment in favour of his mother, Amrawati, regarding the said Jhuggi No. B-661. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further the ground & first floor of the Jhuggi No. B-661 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. B-661 of Amrawati for all purposes and DDA has already made allotment in favour of his mother, Amrawati,

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regarding the said Jhuggi No. B-661. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Amrawati, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. B-661. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/36.G/693 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

30. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Rambir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 270 of 2022

Date of Institution: 24.11.2022

Date of Order: 16.05.2023

Present: Appellant/ Claimant Shiv Sagar S/o Chotte Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No.C-352, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-352 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/19/57.1/825 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 270 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-352 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Shiv Sagar, has been recorded before us on 11.04.2023 wherein he has stated that his parents, Chotte Lal & Urmila, are having three sons; Shiv Sagar, Swarth & Alok and one daughter Kiran. All the children are married. The daughter Kiran is living in her matrimonial home in Azamgarh, Uttar Pradesh. Swarth is married with Kiran and he along with his family is living in Azamgarh, Uttar Pradesh. Alok is married with Pinka and having three children Anushka, Akansha & Tripti. Shiv Sagar (Appellant/Claimant) is married with Manisha and having one daughter Divanshi.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-352 and it is having a pucca staircase going from out side the gali to the upper floor. The Appellant/Claimant has stated that his parents, Chotte Lal & Urmila, along with the family of their son Alok are living on the ground floor of Jhuggi No. C-352 and regarding that DDA has made allotment in favour of his mother Urmila. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Manisha and daughter Divanshi, is living on the first floor of the said Jhuggi No. C-352 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 270 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with 4 video clips pertaining to Jhuggi No. C-352. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 11.04.2023 wherein he has stated that in three videos his mother Urmila is seen on the ground floor of the said Jhuggi No. C-352 and her room & kitchen are also seen and further, an iron ladder going from outside the Jhuggi to the first floor is also seen. In the remaining one video his wife Manish is seen on the first floor and the room & kitchen of the Appellant/Claimant are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video

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clips has duly proved that a double storey Jhuggi No. C-352 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-352 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

12. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/19/57.1/825 dated 07.11.2022.

14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.

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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming

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allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the 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.

19. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2014009 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2015 (Annexure-J) & Voter List of the year 2019 (Annexure-K).

21. It is pointed out that the Voter ID Card No. ARE 2014009 (Annexure-A) has been issued on 21.01.2015, much after the cut off date of 01.01.2015. Therefore the question of his name appearing in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. The name of the Appellant/Claimant appears at Sl. No. 837 in the Voter List of 2015 (Annexure-J) and at Sl. No. 851 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding

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that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and his name also does not appear in in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-352 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-H), which has been issued on in the name of his mother, Urmila, and the names of the family members, including that of the present Appellant/Claimant, has been recorded but the date of issuance has not bee mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-352 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.

23. The Appellant/Claimant has tendered his Driving License (Annexure-D), Passport (Annexure-E), Aadhar Card (Annexure-F) of his wife Manisha, Electricity Bill (Annexure-G) and Pass Book of Bank of Baroda (Annexure-I).

24. It is pointed out that the Driving License (Annexure-D) has been issued on 29.08.2012. The Electricity Bill (Annexure-G) shows that the connection has been taken by his father Chotte Lal on 05.08.2008 on the ground floor of the Jhuggi No. C-352 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. C-352 regarding which he is claiming allotment from DDA. The Pass Book of Bank of Baroda (Annexure-I) shows that the account has been opened on 08.02.2017. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that

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the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and his name also does not appear in in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and his name also does not appear in in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/19/57.1/825 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

16-5-2023

(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

16/5/2023

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

16/5/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 203 of 2023

Date of Institution: 23.11.2022

Date of Order: 16.05.2023

Present: Appellant/ Claimant Sanjay S/o Ramesh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No.C-452, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-452 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/63/25.1/1371 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 203 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 12.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-452 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Sanjay, has been recorded before us on 12.04.2023 wherein he has stated that his parents, Ramesh & Leela, are having two sons, namely, Shyam & Sanjay and two daughters, namely, Gudia & Rano. Ramesh has expired in the year 2021. His Death Certificate is Annexure-G, thereby mentioning that he had died on 30.10.2021. All the children are married. Both the daughters Gudia & Rano are living in their respective matrimonial homes in Rajouri Garden, Delhi. Shyam is married with Rani and having three sons, namely, Harshu, Gungun & Manthan. Sanjay (Appellant/Claimant) is married with Arti and having one son Vihan.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-452 and it comprises of one room on each floor. His mother Leela along with the family of Shyam is living on the ground floor of the said Jhuggi No. C-452 and regarding that DDA has made allotment in favour of his mother Leela. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Arti and son Vihan is living on the first floor of the said Jhuggi No. C-452. The Appellant/Claimant has claimed allotment from DDA against the first floor of the said Jhuggi No. C-452 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 203 of 2023. 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.

10. DDA has furnished the survey record along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 12.04.2023. In one video clip, his mother Leela is seen standing on the ground floor of the Jhuggi and her room & kitchen are also soon. In the remaining one video, Sanjay (A/C) and his wife Arti are seen on the first floor of the said Jhuggi No. C-452 having roof made with Asbestos sheet. Their room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-452 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-452 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

12. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/63/25.1/1371 dated 07.11.2022.

14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

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.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming

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allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the 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.

19. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1079227 (Annexure-A) and Aadhar Card (Annexure-B) and Voter List of the year 2014 (Annexure-I) & Voter List of the year 2019 (Annexure-J).

21. It is pointed out that the Voter ID Card No. CXY 1079227 (Annexure-A) has been issued on 08.03.2002, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 77 in the Voter List of 2014 (Annexure-I) and at Sl. No. 96 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the

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cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

22. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-452 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-H), which has been issued on in the name of his mother, Leela, and the names of the family members, including that of the present Appellant/Claimant, has been recorded but the date of issuance has not bee mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-452 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

23. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1792885 (Annexure-C) & Aadhar Card (Annexure-D) of his wife Arti as well as the Electricity Bill (Annexure-E) and Pass Book of Bank of Baroda (Annexure-F).

24. It is pointed out that Voter ID Card No. CXY 1792885 (Annexure-C) has been issued on 20.12.2013. The Electricity Bill (Annexure-E) shows that the connection has been taken by his father Ramesh on 20.05.2008 on the ground floor of the Jhuggi No. C-452 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. C-452 regarding which he is claiming allotment from DDA. The Pass Book of Bank of Baroda (Annexure-F) shows that the account has been opened by his son Vivan on 21.08.2019. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/25.1/1371 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

16.5.2023

(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

16/5/2023

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

16/5/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 75 of 2023

Date of Institution: 21.11.2022

Date of Order: 24.05.2023

Present: Appellant/ Claimant Jareena W/o Mohd. Iklaq

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-22, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-22 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoo

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Camp, duly communicated its order bearing No. 385/63/6.G/1359 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 75 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 15.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-22 was found to exist on the ground floor 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor as per the policy guidelines issued by DDA.

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7. The statement of Appellant/Claimant, Jareena, has been recorded before us on 15.05.2023 wherein she has stated that she was married with Mohd. Iklak and having two sons; Izhar & Shahnawaz, and three daughters; Shaista, Shabnam & Salma. Shahnawaz, Shaista & Salma are unmarried. Shabnam is married with Afsar and she is living in her matrimonial home in Allahabad, Uttar Pradesh. Izhar is married with Shaheen and having two sons; Abdul & Samad.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. D-22 and having one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The entire family is living jointly in the Jhuggi No. D-22 and also having a joint kitchen. The Appellant/Claimant has stated that she along with her husband and unmarried children are living on the ground floor whereas the family of her son Izhar is living on the first floor of the said Jhuggi No. D-22. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. D-22 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 75 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in her favour.

9. DDA has furnished the survey record along with six video clips pertaining to the Jhuggi No. D-22. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 15.05.2023. In the video clips, Jareena is seen on the ground floor and further her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. D-22 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the ground floor of the said Jhuggi for residential purpose.

10. Accordingly, we have no hesitation in holding that the double storey pucca Jhuggi No. D-22 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is using the ground floor of the said Jhuggi for residential purpose.

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11. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including 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 as per the policy guidelines issued by DDA.

12. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In

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case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

14. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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15. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor as per the policy guidelines issued by DDA.

16. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & Annexure-B) and Aadhar Card (Annexure-C).

17. It is pointed out that the first Voter ID Card No. DL/03/035/252185 (Annexure-A) has been issued on 01.09.1995, much prior to the cutoff date of 01.01.2015 and the second Voter ID Card No. ARE 2570687 (Annexure-B) has been issued on 21.12.2021, much after the cutoff date of 01.01.2015. The Appellant/Claimant has specifically stated that she had never used both the Voter ID Cards bearing No. DL/03/035/252185 (Annexure-A) & ARE 2570687 (Annexure-B) to cast her vote in any of the elections and accordingly, her name has not been mentioned in any of the Voter Lists of the year 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 but her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. The Appellant/Claimant has also tendered two Voter ID Cards (Annexure-D & Annexure-E) & Aadhar Card (Annexure-F) of her husband Mohd. Iklak as well as the Electricity Bill (Annexure-G), Passbook of State Bank of Patiala (Annexure-H) and Ration Card (Annexure-I).

19. It is pointed out that the Electricity Bill (Annexure-G) shows that the connection has been taken by her husband Mohd. Iklak on 23.04.2008. The Passbook of State Bank of Patiala (Annexure-H) shows that the account was opened by the Appellant/Claimant

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on 26.12.2013. The Appellant/Claimant has tendered her Ration Card (Annexure-I) issued in her favour but the date of issuance is not mentioned.

It is pertinent to point out that the Voter ID Card No. DL/03/035/252179 (Annexure-D) has been issued on 15.06.1995 and the second Voter ID Card bearing No. ARE 2567220 (Annexure-E) has been issued on 14.12.2021. The Appellant/Claimant has also specifically stated that her husband had also not used any of the Voter ID Cards (Annexure-D & Annexure-E) to cast his vote. This shows that neither the Appellant/ Claimant nor her husband Mohd. Iklak has used their respective Voter ID Cards to cast vote.

It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the name of the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. The material placed on file shows that the name of the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 but her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the name of the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 but 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, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

21. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has

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rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/6.G/1359 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

22. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 293 of 2023

Date of Institution: 25.11.2022

Date of Order: 24.05.2023

Present: Appellant/ Claimant Om Shiv Shrivastav S/o Onkar Shrivastav

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No.D-108, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-108 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee

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has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/089.G/1444 dated 07.11.202 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 273 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-108 was found to exist but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Om Shiv, has been recorded before us on 08.05.2023 wherein he has stated that his parents, Omkar & Sarla, are having one son, namely, Om Shiv (Appellant/Claimant) and three daughters, namely, Madhu, Bindu & Jyoti and. All the children are married. Madhu is married with Hari Om and living with her parents in Bhoomiheen Camp. Whereas Bindu and Jyoti are living in their respective matrimonial homes Uttam Nagar, Delhi & Ghaziabad Uttar Pradesh. Om Shiv (Appellant /Claimant) is married with Preeti and having one daughter Priyanshi.

8. The Appellant/Claimant has stated that that his parents, Omkar & Sarla, are having a double storey Jhuggi No. D-108, which comprises of two rooms on the ground floor and one room on the first floor and there is a pucca staircase going out side from the gali to the first floor. Both the rooms on the ground floor are interconnected with each other and having two openings in the gali, one on the front side and other in the rear side of the gali. Thus, both the rooms on the ground floor are not separate & independent dwelling units but both constitutes one dwelling unit bearing Jhuggi No. D-108 for all purposes. Thus there are two dwelling units. One on the ground floor, which comprises of two rooms on the ground floor and another on the first floor.

9. The Appellant/Clamant has stated that his parents, Omkar & Sarla, are living in the front room of the said Jhuggi No. D-108 and DDA has made allotment in favour of his mother Sarla. These facts are not disputed by DDA.

10. Appellant/Claimant has stated that his sister Madhu along with her family is living on the first floor of Jhuggi No. D-108 and DDA has made allotment in favour of his sister Madhu against the first floor of Jhuggi No D-108. These facts are not disputed by DDA

11. The Appellant/Claimant has stated that he along with his wife Preeti and daughter Priyanshi is living in the rear room on the ground floor of Jhuggi No. D-108 and has sought allotment against the said room on the ground floor but his claim for allotment has been rejected by Eligibility Determination Committee. Aggrieved by the same he has filed the present appeal No. 273 of 2023 before the Appellate Authority.

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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.

12. DDA has furnished the survey record along with 7 video clips pertaining to Jhuggi No. D-108. The video clips were played before the Appellant/Claimant Om Shiv when his statement was recorded before us on 08.05.2023 wherein he has stated that in the 7 video clips his father Omkar and Preeti (wife of the present Appellant/Claimant) are seen on the ground floor of the Jhuggi No. D-108 and the room & kitchen of his parents are also seen. Two interconnected rooms are also seen in these videos.

13. The Appellant/Claimant has furnished a pen drive (Annexure-F) containing the video of Jhuggi No. D-108, which was played before him when his statement was recorded before us on 08.05.2023 wherein he has stated that in the video clip a pucca staircase going from the ground floor to the first floor is seen. A room and a kitchen on the first floor are seen and further his sister Madhu is seen standing in her room on the first floor. On the ground floor two interconnected rooms are seen and a separate entry of the rear room from the side gali is also seen.

14. Thus the statement of the Appellant/ Claimant as well as the survey records/video clips and the pen drive furnished by the Appellant/ Claimant has duly proved that a double storey Jhuggi No. D-108 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and it comprises of two dwelling units. One on the ground floor, which comprises of two rooms on the ground floor in which his parents, Omkar & Sarla, are living and DDA has made allotment in favour of his mother Sarla regarding that dwelling unit. Another dwelling unit is on the first floor in which his sister Madhu is living and DDA has made allotment in favour of his sister Madhu regarding that dwelling unit.

15. Since DDA has already made allotment in favour of his mother Sarla regarding that dwelling unit on the ground floor, therefore, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Sarla, therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-108. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the rear room on the ground floor because it is part &

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parcel of single dwelling unit bearing Jhuggi No. D-106 of his mother, Sarla. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the ground floor of the Jhuggi bearing No. D-108 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

18. 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

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of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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19. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against Jhuggi bearing No. D-108 as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered the Voter ID Card bearing No. ARE 1531557 (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-I), Voter List of the year 2015 (Annexure-J) and Voter List of the year 2019 (Annexure- K).

22. It is pointed out that the Voter ID Card Number ARE 1531557 (Annexure-A) has been issued on 02.07.2014, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant also appears at Sl. No. 09 in the Voter List of 2012 (Annexure-I), at Sl. No. 19 in the Voter List of the year 2015 (Annexure-J) and at Sl. 35 in the Voter List of 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears the Voter List of the year's 2012 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. The Appellant/Claimant has tendered his Driving License (Annexure-D), the Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Preeti, Electricity Bill (Annexure-G) and the Ration Card (Annexure-H).

24. It is pointed out that the Driving License (Annexure-D) has been issued on 15.03.2013. The Electricity Bill (Annexure-G) shows that the Electricity Connection

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has been taken by his father Omkar on 05.06.2008 on the ground floor of the Jhuggi No. D-108 thereby showing that the Appellant/Claimant was not having electricity connection on the address of the Jhuggi No. D-108 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-H) issued in the name of his mother Sarla and the name of Appellant/Claimant has been mentioned but the date of issuance is not mentioned. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the ground floor of Jhuggi No. D-108 constitute one dwelling unit and regarding that DDA has made allotment in favour of his mother Sarla, therefore, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA.

25. The material placed on file shows that the ground floor of Jhuggi No. D-108 constitute one dwelling unit and regarding that DDA has already made allotment in favour of Sarla, who is the mother of the present Appellant/ Claimant, therefore, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA.

Accordingly, we have no hesitation in holding that the ground floor of Jhuggi No. D-108 constitute one dwelling unit and regarding that DDA has already made allotment in favour of Sarla, who is the mother of the present Appellant/ Claimant, therefore, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the Voter List of the year's 2012 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria

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as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/089.G/1444 dated 07.11.202. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

24/5/2023

(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

24/5/2023

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

24/5/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 471 of 2023

Date of Institution: 30.11.2022

Date of Order: 24.05.2023

Present: Appellant/ Claimant Sanjeev Kumar Verma S/o Shiv Prasad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-147, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-147 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the

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present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/15.1/1405 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 471 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-147 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013,

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2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of Appellant/Claimant, Sanjeev Kumar Verma, has been recorded before us on 17.05.2023 wherein he has stated that his parents, Shiv Prasad & Chameli, are having two sons, Sanjeev & Raju. Both the children are married. Raju is married with Ruby and having three children but he is living in Sangam Vihar, Delhi. Sanjeev (Appellant/Claimant) was married with Vandana but they have taken divorce and Sanjeev is not having any issue in his marriage with Vandana.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. D-147 which comprises of one room on the ground floor and two rooms on the first floor and there is a pucca staircase going from outside in the gali to the upper floor. The room on the ground floor is used as a shop for running a grocery shop by his parents and one of the rooms on the first floor is used by them for their residential purpose and regarding that DDA has made allotment in favour of his mother Chameli. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he is living in the second room on the first floor of the Jhuggi No. D-147 and 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. 471 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with six video clips pertaining to Jhuggi No. D-147. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 17.05.2023 wherein he has stated that in three video clips his parents are seen in the shop on the ground floor. In the next one video clip, a pucca staircase going from outside to the first floor is seen and further his mother Chameli is also seen in the room on the first floor and further her kitchen is also seen. In the next two video clips, the second room & kitchen on the first floor of the Appellant/Claimant is

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seen and further he is also seen standing there. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-147 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-147 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

12. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/15.1/1405 dated 07.11.2022.

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14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**
>
> - Passport.
> - Ration Card with photograph.

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- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the 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.

19. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1191469 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), the Voter List of the year 2014 (Annexure-G) and the Voter List of the year 2019 (Annexure-H)

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21. It is pointed out that the Voter ID Card No. ARE 1191469 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 637 in the Voter List of the year 2014 (Annexure-G) and at Sl. No. 826 in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 also in the year of survey.

22. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-147 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-147 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

23. The Appellant/Claimant has tendered his Caste Certificate (Annexure-D), Driving License (Annexure-E) and Passbook of PNB (Annexure-F). It is pointed that that the Caste Certificate (Annexure-D) has been issued on 06.02.2013 and the Driving License (Annexure-E) has been issued on 28.02.2020. The Passbook of PNB (Annexure-F) shows that the account was opened by the Appellant/Claimant on 16.05.2006. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-

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H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

25. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/15.1/1405 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

26. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 500 of 2023

Date of Institution: 01.12.2022

Date of Order: 24.05.2023

Present: Appellant/ Claimant Sarvesh (since deceased) S/o Ganga Dayal through his legal heir, Sashi (wife)

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/ Claimant Sarvesh (since deceased) S/o Ganga Dayal through his legal heir, Sashi (wife), against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant Sarvesh (since deceased) had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No.D-71, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-71 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the

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present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/64.1/1427 dated 07.11.2022 to the legal heir of the present Appellant/ Claimant, who has since died on 18.03.2022. Aggrieved by the same, the present Appeal No. 500 of 2023 has been filed by his legal heir, Sashi (wife).

3. In response to the notice, Sashi, legal heir of the present Appellant/ Claimant, Sarvesh (since deceased) S/o Ganga Dayal has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of Sashi has been recorded before us on 17.05.2023 and she has tendered documents, Annexure- A to Annexure- N, in support of the claim of the present Appellant/ Claimant, Sarvesh (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Sashi, legal heir of the present Appellant/ Claimant, Sarvesh (since deceased) as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-71 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the present appeal has been filed before us by the Appellant/ Claimant, Sarvesh (since deceased) through his legal heir, Sashi (wife) against order dated 07.11.2022

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant Sarvesh (since deceased). We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant Sarvesh (since

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deceased) was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of Sashi wife of the Appellant/ Claimant Sarvesh (since deceased) has been recorded before us on 17.05.2023 wherein she has stated that her in-laws, Ganga Dayal & Kanti Devi, are having three sons; Manoj, Rajiv & Sarvresh and two daughters, Malti & Pinki. Ganga Dayal had expired about 20 years ago. All the children except Rajiv are married. Malti in living in her matrimonial home in Bhoomiheen Camp whereas Pinki is living in her matrimonial home in Sangam Vihar, Delhi. Manoj is married with Sonia and having two children, Nikhil & Rohan. Sarvesh Appellant/Claimant (since deceased) was married with Sashi and having five children, Sahil, Rohit, Khushi, Deepak & Pari. Sarvesh had expired on 18.03.2022 and his death Certificate is Annexure-F.

8. Sashi has stated that her in-laws, Ganga Dayal & Kanti Devi, are having a double storey Jhuggi No. D-71, which comprise of one room on each floor. her mother-in-law, Kanti Devi, along with her unmarried son Rajiv and also with the family of Manoj is living on the ground floor of the said Jhuggi No. D-71 and regarding that DDA has made allotment in favour of her mother-in-law Kanti Devi. These facts are not disputed by DDA.

9. Sashi has stated that she along with her husband Sarvesh (since deceased) and five children is living on the first floor of Jhuggi No. D-71. The Appellant/Claimant has claimed allotment from DDA against the first floor of Jhuggi No. D-71 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, the Appellant/ Claimant Sarvesh (since deceased) S/o Ganga Dayal through his legal heir, Sashi (wife) has filed the present Appeal No. 500 of 2023. Sashi has tendered documents, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in favour of the Appellant/ Claimant Sarvesh (since deceased).

10. DDA has furnished the survey record along with 9 video clips pertaining to Jhuggi No. D-71. The video clips were played before Sashi when her statement was recorded before us on 17.05.2023 wherein she has stated that in 6 video clips her mother-in-law Kanti devi is seen on the ground floor of the Jhuggi No. D-71 and her room & kitchen are also seen.

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The remaining three videos pertain to the first floor of the Jhuggi No. D-71 in which she Sashi (wife of the Appellant/ Claimant Sarvesh (since deceased)) & her children are seen and her room & kitchen are also seen. Further, a pucca staircase going from the ground floor to the first floor is also seen. Thus the statement of Sashi as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-71 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant Sarvesh (since deceased) along with his family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-71 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant Sarvesh (since deceased) along with his family is using the first floor of the said Jhuggi for residential purposes.

12. Sashi has stated that the claim of the Appellant/Claimant Sarvesh (since deceased) has been wrongly rejected by DDA and she has tendered documents, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in favour of the Appellant/ Claimant Sarvesh (since deceased).

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant Sarvesh (since deceased) has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant Sarvesh (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/64.1/1427 dated 07.11.2022.

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14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.

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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment

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against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the 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.

19. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant Sarvesh (since deceased) was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

20. Sashi has tendered the Voter ID Card bearing No. ARE 1415967 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2014 (Annexure-M) & Voter List of the year 2019 (Annexure-N).

21. It is pointed out that the Voter ID Card Number ARE 1415967 (Annexure-A) has been issued on 22.02.2009, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant Sarvesh (since deceased) also appears at Sl. No. 106 in the Voter List of 2014 (Annexure-M) and at Sl. No. 219 in the Voter List of the year 2019 (Annexure-N).

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Therefore, we have no hesitation in holding that the Appellant/ Claimant Sarvesh (since deceased) was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

22. Sashi has admitted that the Appellant/ Claimant Sarvesh (since deceased) 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-71 regarding which he is claiming allotment from DDA. Sashi has tendered the joint Ration Card (Annexure-L) issued in the name of her mother-in-law Kanti Devi on 06.12.2014 and the name of Sarvesh & Sashi have been mentioned. The fact remains that the Appellant/ Claimant Sarvesh (since deceased) 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-71 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant Sarvesh (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

23. Sashi has tendered her Voter ID Card no. ARE 1189059 (Annexure-C), Aadhar Card (Annexure-D) & PAN Card (Annexure-E) as well as the Aadhar Cards of Sahil & Rohit, Annexure- G & Annexure-H, Birth Certificates of Pari & Deepak, Annexure-I & Annexure-J and Electricity Bill (Annexure-K).

24. It is pointed out that the Voted ID Card No. ARE 1189059 (Annexure-C) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Electricity Bill shows that the electricity connection has been taken by his mother Kanti Devi on 27.06.2008 on the ground floor of the Jhuggi No. D-71 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. D-71 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/ Claimant Sarvesh (since deceased) 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 Sarvesh (since deceased) was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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25. The material placed on file shows that the Appellant/ Claimant Sarvesh (since deceased) was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant Sarvesh (since deceased) was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

26. The Appellant/ Claimant Sarvesh (since deceased) has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant Sarvesh (since deceased) does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/64.1/1427 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

24/5/2023

(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

24/5/2023

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

24/5/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 200 of 2023

Date of Institution: 23.11.2022

Date of Order: 25.05.2023

Present: Appellant/ Claimant Jahanara W/o Masharoor Hussain D/o Tajuddin

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-24, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-24 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/63/9.1/1362 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 200 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 15.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-24 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Jahanara, has been recorded before us on 15.05.2023 wherein she has stated that her parents, Tajuddin & Anisha, are having one son Ali Murtaza and three daughters, Roshan, Anjuman & Jahanara. Tajuddin had expired

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in the year 2009. All the children are married. Ali Murtaza is married with Shama. Roshan is married with Nawabuddin, Anjuman is married with Abid and Jahanara (Appellant/Claimant) is married with Masharoor Hussain.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. D-24, which is having one room on each floor. Her mother Anisha as well as the families of Ali Murtaza and that of Roshan and Anjuman have been living on the ground floor of the said Jhuggi No. D-24 and regarding that DDA has made allotment in favour of her mother Anisha. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that she along with her husband Masharoor Hussain is living on the first floor of the said Jhuggi No. D-24. The Appellant/Claimant has claimed allotment from DDA against the first floor of the said Jhuggi No. D-24 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 200 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey record along with twelve video clips pertaining to the Jhuggi No. D-24. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 15.05.2023 wherein she has stated that in six video clips, her mother Anisha as well as Jahanara (Appellant/Claimant) is seen on the ground floor of the Jhuggi No. D-24 and further her room & kitchen are also seen. In the next six videos, an iron ladder placed outside in the gali for going to the first floor is seen and further, she (Jahanara-Appellant/Claimant) is seen on the first floor of Jhuggi No. D-34 and her room & kitchen are also seen. These facts are not disputed by DDA. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-24 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-24 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

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12. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in her favour.

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut- off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/63/9.1/1362 dated 07.11.2022.

14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less

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than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

19. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered her two Voter ID Cards No. DL/03/035/253010 (Annexure-A) and ARE 1187574 (Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2013 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

21. It is pointed out that the first Voter ID Card is bearing number DL/03/035/253010 (Annexure-A), which has been issued on 06.03.1997, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has stated that the old Voter ID Card (Annexure-A) was discontinued and the Election Commission had issued the second Voter ID Card bearing number ARE 1187574 (Annexure-B) on 27.10.2008, much prior to the cut off date of 01.01.2015. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 166 in the Voter List of the year 2013 (Annexure-K) & at Sl. No. 531 in the Voter List of the year 2019 (Annexure-L). Thus we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card number ARE 1187574 (Annexure-B) on the cut off date of 01.01.2015 and further his name also appears in at least on the voter list of the year's 2013, & also in the year of survey.

22. 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-24

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regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-J), which has been issued in the name of her mother Anisha Begum and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-24 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.

23. The Appellant/Claimant has also tendered the passbook of the Canara Bank (Annexure-E) as well as Voter ID Card No. ARE 2563765 (Annexure-F), Aadhar Card (Annexure-G) & PAN Card (Annexure-H) of her husband Mashroor Hussain and the Electricity Bill (Annexure-I).

24. It is pointed out that the Passbook of Canara Bank (Annexure-E) shows that the Appellant/Claimant had opened the account on 02.11.2018. The Voter ID Card no. ARE 25637645 (Annexure-F) shows that it has been issued on 14.12.2021. The Electricity Bill (Annexure-I) shows that the connection has been taken by her father Tajuddin on 19.05.2008 on the address of ground floor of Jhuggi No. D-24 thereby showing that the Appellant/Claimant is not having connection on the first floor of the Jhuggi No. D-24 regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any

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right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2013 and also in the year of survey.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/9.1/1362 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

Received
17/8/23

10

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Date of Order: 25.05.2023

Present: Appellant/ Claimant Jahanara W/o Masharoor Hussain D/o Tajuddin

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

Vide our detailed order of even date (25.05.2023) we have hold that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Hence, the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/9.1/1362 dated 07.11.2022. Hence, the same is upheld. Consequently, the present appeal No. 200 of 2023 is dismissed being devoid of any merit.

Copy of this order be supplied to both the parties as per 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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25/5/2023

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 676 of 2023

Date of Institution: 16.01.2023

Date of Order: 25.05.2023

Present: Appellant/ Claimant Sunil S/o Vijay Pal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-120, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-120 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the

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Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/92.1/1447 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 676 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-120 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013,

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2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Sunil, has been recorded before us on 19.05.2023 wherein he has stated that his parents, Vijay Pal & Rajo, are having two sons Rahul & Sunil and two daughters, Poonam & Sunita. All are married. Poonam & Sunita are living in their respective matrimonial homes in Palwal & Ghaziabad. Rahul is married with Shalu. Sunil (Appellant/Claimant) is married with Meena and having one daughter Krishna.

8. The Appellant/Claimant has stated that his family is living jointly in single storey Jhuggi No. D-120 and regarding that his mother Rajo has sought allotment from DDA but her claim was rejected by EDC and aggrieved by the same she has filed the Appeal No. 367 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that due to space restrain he along with his family had shifted to live in the adjoining Jhuggi of his real uncle Rajesh S/o Babu Lal bearing Jhuggi No. D-122. But he had sought allotment from DDA against Jhuggi of his mother bearing No. D-120 and aggrieved by the same he has filed the present Appeal No. 676 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. It is pointed out that both the appeals bearing Appeal No. 367 of 2023 and Appeal No. 676 of 2023 shall be decided separately on their individual merits.

11. It is pointed out that the statement of the Appellant/Claimant is vague in nature. He has stated that previously the entire family was living jointly in single storey Jhuggi No. D-120 but due to space restrain he along with his family had shifted to live on the first floor of the adjoining double storey Jhuggi of his real uncle Rajesh S/o Babu Lal bearing Jhuggi No. D-122. But the date, month and year of his shifting to the double storey Jhuggi of his real uncle Rajesh S/o Babu Lal bearing Jhuggi No. D-122 is not disclosed.

12. It is also very surprising that the Appellant/Claimant had shifted to the first floor of the Jhuggi No. D-122 of Rajesh but he still had sought allotment from DDA against Jhuggi of his mother bearing No. D-120 in spite of the fact that the said Jhuggi No. D-120 is a single

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story Jhuggi and a regarding that his mother Rajo had also sought allotment from DDA. This creates dent the story put forward by the present Appellant/Claimant.

13. DDA has furnished the survey record along with 2 video clips pertaining to Jhuggi No. D-120 and 2 video clips pertaining to Jhuggi No. D-122. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 19.05.2023 wherein he has stated that in 2 video clips pertaining to Jhuggi No. D-120 his mother Rajo is seen on the ground floor and further her room & kitchen are also seen. In other 2 video clips pertaining to Jhuggi No. D-122 his real uncle Rajesh S/o Babu Lal is seen on the ground floor and further his room & kitchen are also seen. There is no video of first floor of Jhuggi regarding which he is claiming allotment from DDA. This makes the story put forward by the Appellant/Claimant suspicion and unbelievable.

14. It is pointed out that the survey records placed on file by DDA shows that the Appellant/Claimant had submitted representation to DDA to claim allotment against Jhuggi No. D-120 and he had tried to get the survey conducted against the first floor of the Jhuggi of his uncle Rajesh bearing Jhuggi No D-122 thereby misleading the survey team and accordingly the video was not prepared. However, the Appellant/Claimant has changed his stand when his statement was recorded before us on 19.05.2023 thereby taking a somersault and he started claiming that the entire family was living jointly in Jhuggi No. D-120 but due to space constraints he along with his family has shifted to the first floor of Jhuggi No. D-122 of his uncle Rajesh thereby now taking a stand that he has claimed allotment from DDA against the first floor of Jhuggi No D-122 of his uncle Rajesh. If the statement of the Appellant/Claimant is taken to be a gospel truth then also it is of no help because the Appellant/Claimant has specifically admitted that the documents, Annexure A to Annexure-J, placed on file by him in support of his claim do not pertain to Jhuggi No. D-122 but all have been prepared on then address of Jhuggi No D-120 of his mother Rajo. This creates dent in the story put forward by the Appellant/Claimant.

15. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the Appellant/Claimant has concocted a wrong & false story to grab allotment from DDA inspite of the fact that he was living jointly with his mother in Jhuggi

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No. D-120 and he had submitted the representation to claim allotment from DDA against Jhuggi No. D-120 but had tried to get survey conducted on the first floor of the Jhuggi of his real uncle Rajesh by concocting a wrong & false story because he very well knew that there are two claimants against the said single storey Jhuggi No. D-120, namely, he himself as well as his mother Rajo. Accordingly, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/92.1/1447 dated 07.11.2022.

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19. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**

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- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

20. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

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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."

22. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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25. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1190487 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

26. It is pointed out that the Voter ID Card No. ARE 1190487 (Annexure-A) has been issued on 24.04.2010, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 572 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 762 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

27. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-122 regarding which he is now claiming allotment from DDA because as pointed out above he had initially sought allotment against single storey Jhuggi No. D-120 as per the representation made to the DDDA but he had subsequently changed his stand and started claiming allotment against the first floor of the Jhuggi No. D-122 of Rajesh. The Appellant/Claimant has tendered the his joint Ration Card (Annexure-H), which has been issued in the name of his mother, Rajo, and the names of the family members, including that of the present Appellant/Claimant, has been recorded but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-122 regarding which he is now claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. The Appellant/Claimant has tendered the Aadhar Card (Annexure-C), Pan Card (Annexure- D) of his wife Meena, Aadhar Card of his son Krishna, Electricity Bill (Annexure-F) and Pass Book of Bank of India (Annexure- G).

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29. It is pointed out that the Electricity Bill (Annexure-F) shows that the connection was taken on 11.04.2022 by his mother Rajo and the Pass Book of Bank of India (Annexure- G) shows that the account was opened by the Appellant/Claimant on 24.07.2012. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 and further none of these documents have been issued on the address of first floor of the Jhuggi No. D-122 regarding which he is now claiming allotment from DDA because as pointed out above he had initially sought allotment against single storey Jhuggi No. D-120 as per the representation made to the DDDA but he had subsequently changed his stand and started claiming allotment against the first floor of the Jhuggi No. D-122 of Rajesh. It seems that the Appellant/ Claimant has been changing his stand with a dishonest & fraudulent intention to cheat and defraud DDA just to grab allotment on the basis of wrong claim.

31. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further none of these documents have been issued on the address of first floor of the Jhuggi No. D-122 regarding which he is now claiming allotment from DDA because as pointed out above he had initially sought allotment against single storey Jhuggi No. D-120 as reflected in the representation made to the DDA but he had subsequently changed his stand and started claiming allotment against the first floor of the Jhuggi No. D-122 of Rajesh and this has been done intentionally because the

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Appellant/ Claimant very well knew that Jhuggi D-120 is a single storey Jhuggi and further there are two claimants against the said Jhuggi, namely, his mother Rajo as well as the present Appellant/ Claimant. The Appellant/ Claimant has been changing his stand with a dishonest & fraudulent intention to cheat and defraud DDA just to grab allotment on the basis of wrong claim. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/92.1/1447 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

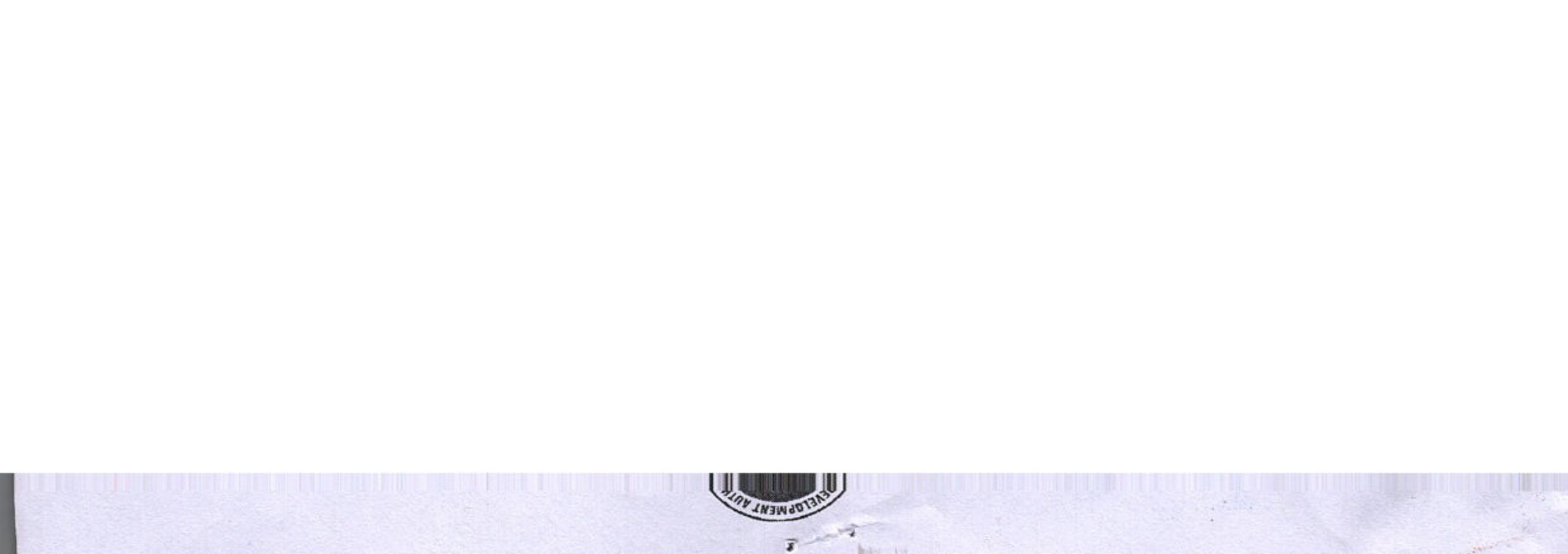
33. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**



दिल्ली विकास प्राधिकरण

आवास एवम शहरी विकास मंत्रालय

इन-सीटूपुनर्वास योजना

डी-ब्लाक, विकास सदन,

नई दिल्ली-110023

Dt→ 04/07/2023

No- 385/18/006707

आदेश

पात्रता निर्धारण समिति ने अपने पारित आदेश संख्या 385/18/006707/787 दिनांक 07/11/2022 के दवारा आपको सुचित किया था कि आप दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के अंतर्गत योग्य नहीं पाये गए थे। इसलिए आपका आवेदन पत्र निरस्त कर दिया गया था।

आपने पात्रता निर्धारण समिति के आदेश के विरूद्ध अपीलीय प्राधिकरण के समक्ष अपील प्रस्तुत की थी अपीलीय प्राधिकारी ने जांच के बाद अपने आदेश दिनांक 25/05/2023 दवारा पात्रता निर्धारण समिति के आदेश संख्या 385/18/006707/787 दिनांक 07/11/2022 को निरस्त कर दिया है ओर आपकी पात्रता वैध पाई है। जिसकी मूल प्रति आप प्राप्त कर चुके हैं।

दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के नियमो के अनुसार अपीलीय प्राधिकारी द्वारा पारित आदेश को सक्षम प्राधिकारी के समक्ष प्रस्तुत किया गया ओर यह पाया गया की आपने पुनर्वास एवं पुनर्स्थापन नीति, 2015 की शर्तो को पूरा किया है तथा अपिलिये प्राधिकारी के आदेश को वैध पाया।

नियमानुसर आपका पात्रता भूमिहीन कैम्प परियोजना में पुनर्वास के लिए वैध है।

4/7/23

उप निदेशक (इन-सीटूपुनर्वास योजना)

Aadhar No. 6233 1266 6590

सेवा में,

श्रीमान/श्रीमती Razo wlo Vijay Pal

J.H. No - D - 120

BHC Kadkaji

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 367 of 2023

Date of Institution: 29.11.2022

Date of Order: 25.05.2023

Present: Appellant/ Claimant Razo W/o Vijay Pal D/o Jash Ram

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-120, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-120 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/67.G/787

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dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 367 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 23.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L and Annexure-X & Annexure-Y, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-120 was found to exist on the ground floor but she had failed to submit required documents, i.e., valid Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not Verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Razo, has been recorded before us on 23.05.2023 wherein she has stated that she is married with Vijay Pal. Vijay pal had expired in the year 2009. Razo is having two sons, namely, Rahul & Sunil and two daughters,

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Poonam & Sunita. All the children are married. Poonam & Sunita are living in their respective matrimonial homes in Palwal & Ghaziabad. Rahul is married with Shalu. Sunil is married with Meena and having one daughter Krishna.

8. The Appellant/Claimant has stated that her entire family was initially living jointly in the single storey Jhuggi No. D-120. But due to space restrain her son Sunil along with his family had shifted to live in the adjoining Jhuggi of his real uncle Rajesh S/o Babu Lal bearing Jhuggi No. D-122 and he had sought allotment from DDA against the said Jhuggi but his claim was rejected by EDC and aggrieved by the same he has filed the Appeal No. 676 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

9. The Appellant/Claimant has further stated that she along with the family of her son Rahul is living in the single storey Jhuggi No. D-120. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. D-120 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 367 of 2023 before the Appellate Authority for redressal. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L and Annexure-X & Annexure-Y, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. It is pointed out that both the appeals bearing Appeal No. 367 of 2023 and Appeal No. 676 of 2023 shall be decided separately on their individual merits.

11. DDA has furnished the survey record along with 2 video clips pertaining to Jhuggi No. D-120. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 23.05.2023 wherein she has stated that in 2 video clips pertaining to Jhuggi No. D-120 she (Razo) is seen on the ground floor and further her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey Jhuggi No. D-120 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. D-120 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family has been using the said Jhuggi for residential purposes.

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13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against single storey Jhuggi as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure- L and Annexure-X & Annexure-Y, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.

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9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

16. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further her name

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must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

17. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi as per the policy guidelines issued by DDA.

18. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter Lists of the year 2012 (Annexure-G), Voter Lists of the year 2013 (Annexure-H), Voter Lists of the year 2014 (Annexure-I), Voter Lists of the year 2015 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

19. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card bearing No. DL/03/035/252435 (Annexure-A) has been issued on 24.03.2012, much prior to the cut off date of 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 412 in the Voter List of the year 2012 (Annexure-G), at Sl. No. 412 in the Voter List of the year 2013 (Annexure-H), at Sl. No. 570 in the Voter List of the year 2014 (Annexure-I), at Sl. No. 641 in the Voter List of the year 2015 (Annexure-J) and at Sl. No. 760 in the Voter List of the year 2019 (Annexure-K). It is pertinent to point out that in all the Voter Lists (Annexure-G to Annexure-K) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be DL/03/035/252435 and further her address is mentioned to be Jhuggi No. D-120 regarding which she is claiming allotment from DDA.

20. It is pointed out that the Appellant/Claimant is having two Voter ID Cards No. DL/03/035/252435 (Annexure-A), which has been used by the Appellant/ Claimant to cast her vote in the years from 2012 to 2019 as reflected in the Voter Lists, Annexure-G to Annexure-K. But the second Voter ID Card bearing No. ARE 2112951 (Annexure-B) has been issued on 19.05.2016. Surprisingly when the second Voter ID Card No. ARE 2112951 (Annexure-B) was issued on 19.05.2016, the first Voter ID Card No. DL/03/035/252435 (Annexure-A) was very much allowed to be in operation and very much a legal & valid

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document by the Election Commission and it has been accordingly used by the Appellant/Claimant to cast her vote up to 2019. She has committed no illegality when she had used this Voter ID Card to cast her vote in 2016 as per the records maintained by the Election Commission.

21. In order to cross-check the genuineness and veracity of the Voter Lists (Annexure-G to Annexure-K), we have downloaded the documents provided by the DDA and these are marked as "Annexure-X (Colly)" thereby showing that the documents furnished by DDA corroborates that all the Voter Lists (Annexure-G to Annexure-K) tendered by the Appellant/Claimant are genuine documents and accordingly, the same are accepted and believed by us.

22. It is also pertinent to point out that when both the Voter ID Cards (Annexure-A & Annexure-B) were crosschecked on the internet then it has been found that the Voter ID Card No. DL/03/035/252435 (Annexure-A) is now not in use but the site of the Election Commission shows that the second Voter ID Card No. ARE 2112951 (Annexure-B) is in use and the report downloaded from the site of the Election Commission is "Annexure-Y". But the fact remains that the first Voter ID Card No. DL/03/035/252435 (Annexure-A) was allowed by the Election commission to be used as a legal and valid document up to the year 2019.

23. The material placed on file accordingly shows that the Appellant/Claimant was having a Voter ID Card bearing No. DL/03/035/252435 (Annexure-A) issued on 24.03.2012 and it was used by the Appellant/Claimant to cast her vote in the years 2012 to 2019 as reflected in the Voter Lists (Annexure G to Annexure-K). However, during the subsistence of the first Voter ID Card No. DL/03/035/252435 (Annexure-A), the Election Commission had issued the second Voter ID Card ARE 2112951 (Annexure-B) on 19.05.2016. In spite of issuance of the second Voter ID Card ARE 2112951, the Election Commission had reflected the first Voter ID Card No. DL/03/035/252435 (Annexure-A) to be the valid document and even the Appellant/Claimant was permitted to cast her vote in the year 2019 on the basis of the first Voter ID Card No. DL/03/035/252435 (Annexure-A).

For such a technical lapse, the Appellant/Claimant cannot be penalized because she has no role to play as the first Voter ID Card is permitted and allowed to be used by the Election Commission as a valid document the Appellant/Claimant to cast her vote. The fact also remains that now the first Voter ID Card No. DL/03/035/252435 (Annexure-A), which was

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allowed to be used to cast vote from 2012 to 2019, has now been withdrawn by the Election Commission and now on its own site the second Voter ID Card No. ARE 2112951 (Annexure-B) has been reflected to be the legal and valid Voter ID Card. 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 her name also appears in the voter list of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has tendered her Passbook of PNB (Annexure-E), which shows that the account was opened on 19.04.2012, much prior to the cut off date of 01.01.2015. Furthermore, the Ration Card (Annexure-F) bearing No. 077002161276 has been issued in favour of the Appellant/Claimant, Razo, in which the names of the entire family members have been mentioned and further this Ration Card was issued on 02.12.2014, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-L) also shows that the Appellant/Claimant had taken the electricity connection on 11.04.2022. It is also pointed out that all these documents have been issued on the address of Jhuggi No. D-120 regarding which the Appellant/claimant is claiming allotment from DDA. This corroborates the statement of the Appellant/Claimant that she along with her family has been living in the Jhuggi No. D-120 since long and more specifically on the cut off date of 01.01.2015. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

25. The material placed on file shows that the Jhuggi No. D-120 is a single storey structure and it was used by the Appellant/Claimant & her family for residential purposes on the cutoff date of 01.01.2015 and further 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 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.

Hence, we have no hesitation in holding that the Jhuggi No. D-120 is a single storey structure and the Appellant/ Claimant & her family has been living in the said Jhuggi No. D-120 on the cutoff date of 01.01.2015 and using it for residential purposes and further the Appellant/ Claimant was having all the requisite documents, including a Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and her name also appears in the voter list

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of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

26. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present Appeal No. 367 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/18/67.G/787 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant Razo W/o Vijay Pal D/o Jash Ram, in respect of the Jhuggi No. D-120, Bhoomiheen Camp.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

दिल्ली विकास प्राधिकरण

आवास एवम शहरी विकास मंत्रालय

इन-सीटूपुनर्वास योजना

डी-ब्लाक, विकास सदन,

नई दिल्ली-110023

No: 385-64/090.G.

Date: 04/07/2023

आदेश

पात्रता निर्धारण समिति ने अपने पारित आदेश संख्या 385/64/0904/1445 दिनांक 07/11/2022 के दवारा आपको सुचित किया था कि आप दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के अंतर्गत योग्य नहीं पाये गए थे। इसलिए आपका आवेदन पत्र निरस्त कर दिया गया था।

आपने पात्रता निर्धारण समिति के आदेश के विरूद्ध अपीलीय प्राधिकरण के समक्ष अपील प्रस्तुत की थी अपीलीय प्राधिकारी ने जांच के बाद अपने आदेश दिनांक 29/05/2023 दवारा पात्रता निर्धारण समिति के आदेश संख्या 385/64/0904/1445 दिनांक 07/11/2022 को निरस्त कर दिया है ओर आपकी पात्रता वैध पाई है। जिसकी मूल प्रति आप प्राप्त कर चुके हैं।

दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के नियमो के अनुसार अपीलीय प्राधिकारी द्वारा पारित आदेश को सक्षम प्राधिकारी के समक्ष प्रस्तुत किया गया ओर यह पाया गया की आपने पुनर्वास एवं पुनर्स्थापन नीति, 2015 की शर्तो को पूरा किया है तथा अपिलिये प्राधिकारी के आदेश को वैध पाया।

नियमानुसर आपका पात्रता भूमिहीन कैम्प परियोजना में पुनर्वास के लिए वैध है।

4/7/2023

उप निदेशक (इन-सीटूपुनर्वास योजना)

c/o Seema Mother of Deepak Saxena.

सेवा में,

श्रीमान/श्रीमती Sh. Deepak Saxena s/o Sh. Sunil kumar Saxena

D-111, BHC

Kalkaji

Aadhar No. 9772 0688 6288

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 219 of 2023

Date of Institution: 23.11.2022

Date of Order: 29.05.2023

Present: Appellant/ Claimant Deepak Saxena S/o Sunil Kumar Saxena

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-111, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-111 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order

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bearing No. 385/64/090.G/1445 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 219 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 22.05.2023 and he has also examined his mother Seema Saxena on 19.05.2023 in support of his claim. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-111 was found to exist but he had failed to submit required documents, i.e., valid Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. D-111 as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Deepak Saxena, and his mother, Seema Saxena, have been recorded before us on 22.05.2023 & 19.05.2023 respectively and the gist of their statements is that Sunil Saxena & Seema Saxena, are having one son Deepak and three daughters, Kamlesh, Neelam & Nisha. Sunil Saxena had expired in the year 2008. All the children except Nisha are married. Neelam is married with Sohan and she is living in her matrimonial home in Lal Kuan, Delhi. Kamlesh is married with Harish and she is living in her matrimonial home in Bhoomiheen Camp. Deepak is married with Suman and having one daughter Anna.

8. Deepak Saxena and Seema Saxena have stated that their family is having a double storey Jhuggi No. D-111 and it comprises of one room on each floor and the first floor is not having an independent access from the outside in the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. Deepak Saxena along with his wife is living on the ground floor and he has sought allotment from DDA against the ground floor whereas his mother Seema Saxena along with her unmarried daughter, Nisha, is living on the first floor and she has sought allotment from DDA against the first floor of the said Jhuggi No. D-111.

9. It is pointed out that the statements of Deepak Saxena and Seema Saxena have stated that the first floor is not having independent access from the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. This shows that the first floor of the Jhuggi No. D-111 is not separate and independent dwelling units because it is not having an independent access from the gali. However, in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, both the ground & first floors of Jhuggi No. D-111 are not separate and independent dwelling units but both are part & parcel of one dwelling unit of the Appellant/Claimant, Deepak Saxena, on the ground floor bearing Jhuggi No. D-111 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant Deepak Saxena and Seema Saxena accordingly shows that the first floor of the Jhuggis No. D-111 is not having any independent access from the gali but in order to reach the upper floor, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but

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they constitute one dwelling unit of the Appellant/Claimant Deepak Saxena on the ground floor bearing Jhuggi No. D-111 for all purposes.

11. Deepak Saxena and Seema Saxena have also stated that Seema Saxena along with her unmarried daughter Nisha is living on the first floor of the said Jhuggi No. D-111 and regarding that Seema had sought allotment form DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 217 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. Deepak Saxena and Seema Saxena have also stated that Deepak Saxena along with his wife Suman and daughter Anna is living on the ground floor of the said Jhuggi No. D-111. The Appellant/Claimant, Deepak Saxena, has sought allotment from DDA against the ground floor of the said Jhuggi No. D-111 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 219 of 2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is pointed out that both the Appeals bearing Appeal No. 217 of 2023 and 219 of 2023 shall be decided separately on their individual merits.

14. DDA has furnished the survey record along with five video clips pertaining to the Jhuggi No. D-111. The video clips were played before Deepak Saxena and Seema Saxena when their statements were recorded before us on 22.05.2023 and 19.05.2023 respectively wherein they have stated that in three video clips, Deepak Saxena is seen on the ground floor of the Jhuggi No. D-111 and his room & kitchen are seen and further, a pucca staircase constructed inside his room on the ground floor and going to the upper floor is also clearly seen. Further, in two video clips, Seema Saxena, is seen on the first floor of the Jhuggi No. D-111 and her room & kitchen on the first floor are also seen.

15. The admissions of Deepak Saxena and Seema Saxena are a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first floor of the Jhuggi No. D-111 is not having any independent access from the gali but in order to reach the upper floors one has to

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use the pucca staircase constructed inside the room on the ground floor. Therefore, the ground & first floor are not separate and independent dwelling units but they constitute one dwelling unit on the ground floor bearing Jhuggi No. D-111 of Deepak Saxena for all purposes.

16. Thereby keeping in view that the ground & first floor of Jhuggi No. D-111 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-111 of the Appellant/Claimant Deepak Saxena, for all purposes. But two allotments have been sought against the said Jhuggi. Deepak Saxena has sought allotment against the ground floor whereas his mother Seema Saxena has sought allotment against the first floor from DDA regarding the said Jhuggi No. D-111, which is found to be single dwelling unit of Deepak Saxena. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since Deepak Saxena has also sought allotment against Jhuggi No. D-111 therefore Seema Saxena is not entitled to seek second allotment from DDA against that very Jhuggi No. D-111. But it seems that her mother Seema Saxena in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, Seema Saxena (Appellant/Claimant of Appeal No. 217 of 2023) cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. D-111 of her son, Deepak Saxena and accordingly the Seema Saxena does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. Here it pertinent to mention that in Paras No. 1 of the proceedings conducted by Eligibility Determination Committee it is pointed out that in the survey records of DDA it is mentioned that the upper floor Jhuggi of the Appellant/Claimant was found to exist. But there seems to be some clerical/typographical mistake because in the survey records placed before us along with the photographs prepared by the survey team it is mentioned that "single story Jhuggi No. D-111" was found to exist on spot and it was also found to be used for residential purposes. Thus the statement of the Appellant/Claimant as well as the video clips furnished by DDA as well as the survey records placed before us along with the photographs prepared by the survey team shows that the Jhuggi of the Appellant/Claimant regarding which survey was conducted by DDA's Survey Team is a double storey Jhuggi No. D-111 and it comprises of one room on each floor and the first

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floor is not having an independent access from the outside in the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor and further the ground & first floor of Jhuggi No. D-111 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-111 of the Appellant/Claimant Deepak Saxena, and has been used for residential purposes.

18. Accordingly, we have no hesitation in holding that the Jhuggi No. D-111 Bhoomiheen Camp is a pucca double storey structure and it comprises of one room on each floor and the first floor is not having an independent access from the outside in the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor and further the ground & first floor of Jhuggi No. D-111 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-111 of the Appellant/Claimant Deepak Saxena. Further, the Appellant/Claimant Deepak Saxena along with his family has been using the said Jhuggi for residential purposes.

19. As per discussion above the Jhuggi No. D-111, Bhoomiheen Camp is found to a pucca double storey structure constituting one dwelling unit, therefore, the eligibility of the Appellant/ Claimant has to be determined as per Parameters prescribed for ground floor and not for the first floor.

20. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against ground floor of Jhuggi No. D-111 as per the policy guidelines issued by DDA.

21. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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

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reproduced as under:

"Part-B

<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.

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- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

23. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. D-111 as per the policy guidelines issued by DDA.

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25. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1890176 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

26. It is pointed out that the Voter ID Card No. ARE 1890176 (Annexure-A) has been issued on 25.03.2014, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant also appears at Sl. No. 175 in the Voter List of the year 2015 (Annexure-L) and at Sl. No. 258 in the Voter List of the year 2019 (Annexure-M). It is pointed out that in both the Voter Lists, Annexure-L & Annexure-M, the number of Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1890176 and further his address is given to be Jhuggi No. D-111 regarding which he is claiming allotment from DDA. The material placed on file accordingly shows that the Appellant/Claimant was having a Voter ID Card bearing No. ARE 1890176 (Annexure-A) issued on 25.03.2014 and it was used by the Appellant/Claimant to cast his vote in the years 2015 to 2019 as reflected in the Voter Lists (Annexure L & Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the years 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/Claimant has tendered his Driving License (Annexure-D) as well as Voter ID Card No. NLN 1749307 (Annexure-E), Aadhar Card (Annexure-F), & PAN Card (Annexure-G) & the Passbook of Canara Bank (Annexure-I) of his wife Suman Kumari and his Passbook of Union Bank (Annexure-H), Electricity Bill (Annexure-J) and Ration Card (Annexure-K).

28. It is pointed out that the Driving License (Annexure-D) has been issued on 22.03.2013, much prior to the cut off date of 01.01.2015. The Voter ID Card (Annexure-E) has been issued on 05.09.20012, much prior to the cut off date of 01.01.2015. The Passbook of Canara Bank (Annexure-I) shows that his wife Suman Kumari had opened the account on 13.01.2015. The Electricity Bill (Annexure-J) shows that the connection has been taken by his sister Kamlesh on 10.06.2008 on the ground floor of the Jhuggi No. D-111 because at that time she was unmarried. The Ration Card (Annexure-K) has been issued in the name of his mother Seema on 30.10.2014 and the name of the Appellant/Claimant has also

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been mentioned. It is pertinent to point out that all the above-mentioned documents have been issued on the address of Jhuggi No. D-111 regarding which the Appellant/Claimant is claiming allotment from DDA and further the documents, Annexure-D, Annexure-E, Annexure-H, Annexure-J & Annexure-K, have been issued much prior to the cut off date of 01.01.2015. Furthermore, all these documents also corroborate the statement of the Appellant/Claimant that he along with his family has been living continuously since long in the Jhuggi No. D-111 and more specifically on the cut off date of 01.01.2015. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Jhuggi No. D-111 is a double storey structure and further, the ground & first floor of Jhuggi No. D-111 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-111 of the Appellant/Claimant, Deepak Saxena, and he along with his family has been using the said Jhuggi for residential purposes on the cutoff date of 01.01.2015 and further the Appellant/ Claimant was having all the requisite documents, including a Voter ID card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2015 (prior to 01-01-2015) & also in the year of survey.

Hence, we have no hesitation in holding that the Jhuggi No. D-120 is a double storey structure and it constitutes one dwelling unit bearing Jhuggi No. D-111 of the Appellant/Claimant, Deepak Saxena, and he along with his family has been using the said Jhuggi for residential purposes on the cutoff date of 01.01.2015 and further the Appellant/ Claimant was having all the requisite documents, including a Voter ID card, on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

30. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present Appeal No. 219 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/64/090.G/1445 dated 07.11.2022. DDA

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is hereby directed to make allotment in favour of Appellant/ Claimant, Deepak Saxena S/o Sunil Kumar Saxena, in respect of the Jhuggi No. D-111, Bhoomiheen Camp.

31. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

दिल्ली विकास प्राधिकरण

आवास एवम शहरी विकास मंत्रालय

इन-सीटूपुनर्वास योजना

डी-ब्लाक, विकास सदन,

नई दिल्ली-110023

NO:- 385/37/009

Dt 04/07/2023

आदेश

पात्रता निर्धारण समिति ने अपने पारित आदेश संख्या 385/37/009/994 दिनांक 07/11/2022 के दवारा आपको सुचित किया था कि आप दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के अंतर्गत योग्य नहीं पाये गए थे। इसलिए आपका आवेदन पत्र निरस्त कर दिया गया था।

आपने पात्रता निर्धारण समिति के आदेश के विरूद्ध अपीलीय प्राधिकरण के समक्ष अपील प्रस्तुत की थी अपीलीय प्राधिकारी ने जांच के बाद अपने आदेश दिनांक 29/05/2023 दवारा पात्रता निर्धारण समिति के आदेश संख्या 385/37/009/994 दिनांक 07/11/2022 को निरस्त कर दिया है ओर आपकी पात्रता वैध पाई है। जिसकी मूल प्रति आप प्राप्त कर चुके हैं।

दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के नियमो के अनुसार अपीलीय प्राधिकारी द्वारा पारित आदेश को सक्षम प्राधिकारी के समक्ष प्रस्तुत किया गया ओर यह पाया गया की आपने पुनर्वास एवं पुनर्स्थापन नीति, 2015 की शर्तो को पूरा किया है तथा अपिलिये प्राधिकारी के आदेश को वैध पाया।

नियमानुसर आपका पात्रता भूमिहीन कैम्प परियोजना में पुनर्वास के लिए वैध है।

उप निदेशक (इन-सीटूपुनर्वास योजना)

सेवा में,

श्रीमान/श्रीमती Haseena Begum w/o Sh. Mohd Abbas

D-212 BNC

Nahaji

Aadhar No

3152 7240 4684

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 177 of 2022

Date of Institution: 23.11.2022

Date of Order: 29.05.2023

Present: Appellant/ Claimant Haseena Begum W/o Mohd. Abrar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-212, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. D-212 was found to be used solely for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its

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order bearing No. 385/37/009/994 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 177 of 2022 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 23.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-212 was found to be used solely for commercial purposes and accordingly she was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Commercial"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. D-212 was found to be exclusively used for commercial purposes and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

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and whether she is entitled to claim allotment against Jhuggi No. D-112 as per the policy guidelines issued by DDA.

7. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Q, in support of her claim and prayed that DDA be directed to make allotment in her favour. It is argued on behalf of the Appellant/ Claimant that she fulfills the criteria and possesses all the requisite documents. The Jhuggi bearing No. D-212 has been wrongly found to have been used solely for commercial purposes because the ground floor is used for commercial purposes for running a Paan-Shop (Betel Shop) by her and the first floor is used for residential purposes by the Appellant/ Claimant and her family.

8. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and her name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she had made wrong claim in collusion with his family members to claim alternate allotment from DDA in spite of the fact that she was not living on the ground floor of Jhuggi No. D-212 regarding which she has claimed allotment from DDA but instead on the cutoff date of 01.01.2015 she was found to be solely using the said ground floor for commercial purposes by running a "Paan Shop" from there and further she has come forward with a wrong & false story. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/009/994 dated 07.11.2022.

9. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**

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1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot/flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.

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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

10. The statement of the Appellant/Claimant, Haseena Begum, has been recorded before us on 23.05.2023 wherein she has stated that she was married with Mohd. Abrar and having four sons, Sajjad, Azad, Irshad & Shadab and three daughters; Shakila, Reshma & Gulabsha. Mohd. Abrar had expired on 10.03.2022 and his death Certificate is Annexure-H. All the children except Irshad are married. Shakila, Reshma & Gulabsha are living in their respective matrimonial homes in Okhla, Sangam Vihar & Ghaziabad respectively. Sajjad had expired about seven years ago and now his wife Shama is living on rent in Loni, Uttar Pradesh. Azad is married with Farah. Shadab is married with Ruksar.

11. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. D-212 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the first floor and thereafter, another iron ladder is placed on the first floor for going to the second floor. The Appellant/Claimant has stated that her son Azad along with his wife Farah is living on the second floor and he has sought allotment from DDA but his claim has been rejected. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Mohd. Abrar (till his death on 10.03.2022) along with her unmarried son Irshad and the family of Shadab have been using the ground floor and the first floor of the said Jhuggi No. D-212. The ground floor is used for running a "Pan Shop (Betel Shop)" by her whereas she and her entire family is using the first floor of the said Jhuggi for their residential purposes. The Appellant/Claimant has sought allotment from DDA against the said ground and the first

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floor of the Jhuggi No. D-212 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 177 of 2022. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Q, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. DDA has furnished the survey record along with eight video clips pertaining to the Jhuggi No. D-212. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 23.05.2023 wherein she has stated that on the ground floor a "Pan Shop" is seen and further a pucca staircase going from outside in the gali to the first floor and thereafter one iron ladder placed on the first floor for going to the second floor is also seen. The Appellant/Claimant is also seen sitting on the first floor but the survey has been conducted by her son Shahab on behalf of his mother Haseena because at the relevant time, she happened to be in "Iddat" and further Shadab is also seen holding a slate in his hand on which "HASEENA BEGUM D-212 G (SHOP) F (RES)" has been written. This further corroborates the claim of the Appellant/Claimant that the ground floor was used by her for running a Paan Shop and the first floor was used by her and other family members for residential purposes.

14. The Appellant/Claimant has also tendered a pen drive (Annexure-Q) containing the video clips of the Jhuggi No. D-212 and the same has been saved in the computer along with the video clips prepared by the survey team of DDA and the said pen drive containing the video was also played before the Appellant/Claimant on 23.05.2023 when her statement was recorded before us wherein she has stated that in the video clip, her triple storey Jhuggi is clearly seen and further, pucca staircase constructed outside the gali for going to the first floor and thereafter one iron ladder is placed on the first floor for going to the second floor is also clearly seen. Further, the "Paan Shop" on the ground floor which is clearly seen to be locked is seen and further on the first floor the Appellant/Claimant is seen sitting on the floor as she has been stated to be in "Iddat" because of death of her husband On 10.03.2022 and her room & kitchen on the first floor used for residential purposes is also seen. Further, the room & kitchen on the second floor is also seen. This also corroborates that the ground floor was used by her for running a Paan Shop by the Appellant/Claimant and the first floor was used by her and other family members for residential purposes.

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15. The condition contained in Part–B Paras No. 8 & 9 of DDA policy detailed in Para no. 9 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."*

16. As per our discussion above, the statement of the Appellant/Claimant as well as the survey records/video clips furnished by DDA and also the video contained in the pen-drive (Annexure-Q) has duly proved that the ground floor and first floor of Jhuggi No. D -212 was used by the Appellant/Claimant for Residential-cum-commercial purposes and it constitute one dwelling unit of Haseena Begum and further on the cutoff date of 01.01.2015 it was not solely used for commercial purposes but on the other hand it was put to mixed use as commercial & residential by the Appellant/Claimant, Haseena Begum. The ground floor was used as a "Paan Shop" and first floor was used by Haseena Begum and her family for residential purposes.

17. Now we shall first appraise the material placed on file to determine the eligibility of the present Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey and whether she is entitled to claim allotment against the said Jhuggi No. D-212 as per the policy guidelines issued by DDA.

18. The bare perusal of the Policy detailed in Para no. 9 above shows that for claiming allotment the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required

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to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

19. The Appellant/Claimant has tendered her two Voter ID Cards bearing Nos. CXY 1085083 (Annexure-A) & ARE 1194141 (Annexure-B), Aadhar Card (Annexure-C), Pan Card (Annexure-J), Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O) and Voter List of the year 2019 (Annexure-P).

20. It is pointed out that the first Voter ID Card CXY 1085083 has been issued on 11.03.2002, much prior to the cut -off date of 01.01.2015. Thereafter, the second Voter ID Card No. ARE 1194141 (Annexure-B) was issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The reasons of having two Voter ID Cards is not satisfactorily explained by the Appellant/Claimant. But the claim of the Appellant/Claimant cannot discarded simply because she happened to have two Voter ID cards. Further, the name of the Appellant/Claimant appears at Sl. No. 721 in the Voter Lists of 2012 (Annexure-L), at Sl. No. 721 in the Voter List of the year 2013 (Annexure-M), at Sl. No. 878 in the Voter List of the year 2014 (Annexure-N), at Sl. No. 947 in the Voter List of the year 2015 (Annexure-O) and at Sl. No. 1057 in the Voter List of the year 2019 (Annexure-P).

21. It is pointed out that in all these Voter Lists (Annexure-L to Annexure-P) the Voter ID Card Number of the Appellant/Claimant is mentioned to be ARE 1194141 and further in all these documents her address is mentioned to be D-212 regarding which she is claiming allotment from DDA. 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 her name also appears in the voter list of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

22. The Appellant/Claimant has tendered two Voter ID Cards CXY 1079748 (Annexure-D) & ARE 1194133 (Annexure-E) & Aadhar Card (Annexure-F) of her husband Mohd. Abrar as well as Electricity Bill (Annexure-G), Driving License (Annexure-I) and Ration Card (Annexure-K).

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23. It is pointed out that the Appellant/Claimant has tendered two Voters ID Cards of her husband Mohd. Abrar. The first Voter ID Card bearing no. CXY 1079748 (Annexure-D) has been issued on 08.03.2002 and the second Voter ID Card bearing No. ARE 1194133 (Annexure-E) has been issued on 27.10.2008. Both the Voter ID cards have been issued much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection was taken by her husband Mohd. Abrar on 14.06.2008 and the Driving License (Annexure-I) shows that it has been issued on 01.10.2011 and both the document have been issued much prior to the cut off date of 01.01.2015. The Ration Card (Annexure-K) shows that it has been issued in favour of the Appellant/Claimant and the name of the family members have been mentioned but the date of issuance is not mentioned. This corroborates the statement of the Appellant/Claimant that she along with her family has been living in the Jhuggi No. D-212 since long and more specifically on the cut off date of 01.01.2015. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

24. The material placed on file shows that the ground floor & first floor of Jhuggi No. D -212 was used by the Appellant/Claimant for Residential-cum-commercial purposes and it constitute one dwelling unit of Haseena Begum and further on the cutoff date of 01.01.2015 it was not solely used for commercial purposes but on the other hand it was put to mixed use as commercial & residential by the Appellant/Claimant, Haseena Begum. The ground floor was used as a "Paan Shop" and first floor was used by Haseena Begum and her family for residential purposes. The Jhuggi No. D-212 was not used solely for commercial purposes on the cutoff date of 01.01.2015 but it was put to mixed used for commercial & residential purposes and the same has been duly substantiated by the video clips prepared by the survey team & the pen-drive furnished by the Appellant/ Claimant and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and 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. Hence, we have no hesitation in holding that the Jhuggi No. D-212 at the time of cutoff date of 01.01.2015 was & is still being used for both residential & commercial purposes and accordingly the claim put forward by the present Appellant/Claimant has been fully covered under the condition contained in Part–B Paras No. 8 & 9 of DDA policy and further the Appellant/ Claimant was having all the requisite

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documents, including Voter ID card & Ration Card, on the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

25. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present Appeal No. 177 of 2022 stands allowed, hereby, setting aside the impugned order bearing No. 385/37/009/994 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant Haseena Begum W/o Mohd. Abrar, in respect of the Jhuggi No. D-212, Bhoomiheen Camp.

26. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

दिल्ली विकास प्राधिकरण

आवास एवम शहरी विकास मंत्रालय

इन–सीटूपुनर्वास योजना

डी–ब्लाक, विकास सदन,

नई दिल्ली–110023

No-385-64/05.1

Dt. 04.07.2023

आदेश

पात्रता निर्धारण समिति ने अपने पारित आदेश संख्या 385/64/S.1/1401 दिनांक 07/11/2022 के दवारा आपको सुचित किया था कि आप दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के अंतर्गत योग्य नहीं पाये गए थे। इसलिए आपका आवेदन पत्र निरस्त कर दिया गया था।

आपने पात्रता निर्धारण समिति के आदेश के विरूद्ध अपीलीय प्राधिकरण के समक्ष अपील प्रस्तुत की थी अपीलीय प्राधिकारी ने जांच के बाद अपने आदेश दिनांक 29.05.2023 दवारा पात्रता निर्धारण समिति के आदेश संख्या 385/64/S.1/1401 दिनांक 07/11/2022 को निरस्त कर दिया है ओर आपकी पात्रता वैध पाई है। जिसकी मूल प्रति आप प्राप्त कर चुके हैं।

दिल्ली विकास प्राधिकरण की पुनर्वास एवं पुनर्स्थापन नीति, 2015 के नियमो के अनुसार अपीलीय प्राधिकारी द्वारा पारित आदेश को सक्षम प्राधिकारी के समक्ष प्रस्तुत किया गया ओर यह पाया गया की आपने पुनर्वास एवं पुनर्स्थापन नीति, 2015 की शर्तो को पूरा किया है तथा अपिलिये प्राधिकारी के आदेश को वैध पाया।

नियमानुसर आपका पात्रता भूमिहीन कैम्प परियोजना में पुनर्वास के लिए वैध है।

Received

Prakash

Adhar Card → 241905302964

C/C

उप निदेशक (इन-सीटूपुनर्वास योजना)

4/7/2023

सेवा में,

श्रीमान/श्रीमती Pradeep Kr. S/o Ram Niwas

Jh. No. D-135

BHC, Kalkaji

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 210 of 2023

Date of Institution: 23.11.2022

Date of Order: 29.05.2023

Present: Appellant/Claimant Pradeep S/o Ramniwas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-135, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-135 was found to exist on the first floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/5.1/1401 on

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 210 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 21.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Y, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-135 was found to exist on the upper floor but he had failed to submit required documents, i.e., a separate Ration card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Pradeep has been recorded before us on 21.04.2023 wherein he has stated that his parents, Ram Niwas & Tarawati, are having

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four sons; Surjit, Pradeep, Kuldeep & Gaurav and one daughter Laxmi. Ram Niwas has expired in the year 2008. Pradeep & Laxmi are married whereas all the remaining three sons Surjit, Kuldeep & Gaurav are unmarried. Laxmi is living in her matrimonial home. Pradeep is married with Kirti and having one son Dhruv.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. D-135 and it comprises of one room on each floor and there is a pucca staircase going from the gali to the upper floor. His mother, Tarawati, along with her unmarried sons are living on the ground floor & second floor of the said Jhuggi No. D-135 and regarding that DDA has made allotment in favour of Tarawati. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Kirti and son Dhruv is living on the first floor of the said Jhuggi No. D-135. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-135 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 210 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Y, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with 8 video clips pertaining to Jhuggi No. D-135. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.04.2023 wherein he has stated that in 4video clips his mother, Tarawati, is seen on the ground floor of the Jhuggi No. D-135 and her room & kitchen are also seen. In the other 4 videos Kirti wife of the Appellant/Claimant Pradeep is seen on the first floor of Jhuggi No. D-135 and his room & kitchen are also seen. It is pointed out that in the video clip the third floor is not seen because no claim has been filed exclusively against the second floor but Tarawati had sought allotment against the ground and second floor of the Jhuggi No. D-135. As there is nothing to disbelieve the statement of the Appellant/Claimant that Jhuggi No. D-135 is a triple story pucca structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi No. D-135 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family members was using the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. D-135 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Y, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015 Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/5.1/1401 on 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having

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any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year' s 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1191204 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-U), Voter List of the year 2013 (Annexure- V), Voter List of the year 2014 (Annexure-W), Voter List of the year 2015 (Annexure-X) & Voter List of the year 2019 (Annexure-Y).

22. It is pointed out that the Voter ID Card ARE 1191204 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 466 in the Voter List of the year 2012 (Annexure-U), at Sl. No. 466 in the Voter List of the year 2013 (Annexure-V), at Sl. No. 618, in the Voter List of the year 2014 (Annexure-W), at Sl. No. 689 in the Voter List of the year 2015 (Annexure-X) and at Sl. No. 806 in the Voter List of the year 2019

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(Annexure-Y). It is pointed out that in all the Voter Lists, Annexure-U to Annexure-Y, the Number of the Voter ID Card of the Appellant/Claimant is reflected to be ARE 1191204 and further his address is recorded to be D-135, Bhoomiheen camp regarding which he is claiming the allotment from DDA. Thus we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. D-135 regarding which the present Appellant/ claimant is claiming allotment from DDA and further his name also appears in at least on the voter list of the year's 2009, 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. This shows that the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he accordingly fulfills the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/Claimant has stated that he was having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-135 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-T) bearing number 077004725630, which has been issued in favour of his wife Kirti and the name of the Appellant/Claimant as well as his son Dhruv has been recorded. This Ration Card has been issued on 26.11.2014, much prior to the cut off date of 01.01.2015 and further it has been issued on the address of Jhuggi No. D-135 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. D-135 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), Birth Certificate (Annexure-E), Caste Certificate (Annexure-F), Passport (Annexure-G), Driving License (Annexure-H), Passbook of PNB (Annexure-I), Passbook of Bank of India (Annexure-J), LIC Policy (Annexure-K), B.A. Degree (Annexure-L), Employment Exchange Application (Annexure-M), Conductor License (Annexure-N) as well as the Voter ID Card No. ARE 2078045 (Annexure-O), Aadhar Card (Annexure-P), PAN Card

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(Annexure-Q) & Passbook of Bank of India (Annexure-R) of his wife Kirti and Aadhar Card of his son Dhruv (Annexure-S).

25. It is pointed out that the Electricity Bill (Annexure-D) shows that the electricity connection has been taken in the name of the Appellant/Claimant on 03.07.2017 on the address of Jhuggi No. D-135 regarding which the Appellant/Claimant is claiming the allotment from DDA. The Birth Certificate (Annexure-E) shows that it has been issued on 08.06.2012 and the Caste Certificate (Annexure-F) has been issued on 01.10.2009. The Passport (Annexure-G) has been issued on 07.05.2012 and the Driving License (Annexure-H) has been issued on 13.12.2007. The Passbook of PNB (Annexure-I) shows that the account has been opened on 23.10.2009 and the Passbook of Bank of India (Annexure-J) shows that the account has been opened on 10.01.2012 by the Appellant/Claimant. It is pointed out that all these documents have been issued much prior to the cut off date of 01.01.2015 and further in all the documents his address is given to be Jhuggi No. D-135 regarding which he is claiming allotment from DDA.

26. It is further pointed out that the LIC Policy (Annexure-K) has been issued on 31.03.2008 in favour of the Appellant/Claimant and his B.A. Degree (Annexure-L) has been issued on 16.09.2011 in which his address is mentioned to be Jhuggi No. D-135. The Employment Exchange Application (Annexure-M) is dated 04.10.2011 and the Conductor License (Annexure-N) of the Appellant/Claimant has been issued on 18.10.2012. All these documents have also been issued much prior to the cut off date of 01.01.2015. The Voter ID Card ARE 2078045 (Annexure-O) of his wife Kirti has been issued on 26.10.2015 and the Passbook of Bank of India (Annexure-R) shows that the account was opened on 06.06.2017. It is also pointed out that the documents have been issued on the address of Jhuggi No. D-135. This further corroborates the statement of the present Appellant/ Claimant that he along with his family has been living on the first floor of the Jhuggi No. D-135 since long and more specifically on the cutoff date of 01.01.2015. This further shows that the Appellant/Claimant is having required documents and he accordingly fulfills the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was having a valid Voter ID Card & a separate Ration Card, on the cut off date of 01.01.2015, which have been issued on the address of first floor of the Jhuggi No. D-135 regarding which the

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Appellant/Claimant is claiming allotment from DDA and further 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. In addition to that the material placed on file has also proved that the Appellant/Claimant has furnished documents, Annexure-A to Annexure-Y, which have been issued on the address of Jhuggi No. D-135 regarding which the Appellant/Claimant has claimed allotment from DDA thereby showing that the along with his family members has been living continuously and more specifically on the cutoff date of 01.01.2015 on the first floor of the Jhuggi No. D-135. In the light of our detailed discussion above, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents, including Voter ID card & separate Ration Card, on the cutoff date of 01.01.2015 and further his name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Thus we have no hesitation in holding that the Appellant/ Claimant fulfills the eligibility criteria on all the parameters as per the guidelines issued by DDA.

28. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 210 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/64/5.1/1401 on 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/Claimant Pradeep S/o Ramniwas in respect of first floor of the Jhuggi No. D-135, Bhoomiheen Camp.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 710 of 2023

Date of Institution: 07.02.2023

Date of Order: 25.05.2023

Present: Appellant/ Claimant Soma W/o Virender D/o Ashish

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-197, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-197 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/47.G/772 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 710 of 2023 has been filed by the present Appellant/ Claimant.

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3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-C, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. D-197 was found to exist on the ground floor 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor as per the policy guidelines issued by DDA.

7. The statement of Appellant/Claimant, Soma, has been recorded before us on 19.05.2023 wherein she has stated that her in-laws Shiv Dutt & Anguri, are having two sons, Virender & Tinku and four daughters Vijaya, Bimlesh, Radha & Preeti. Shiv Dutt had expired on 14.05.2022. All the children except Tinku are married. Vijaya is living in

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her matrimonial home in DDA Flats, Kalkaji, Delhi. Whereas the other three daughters Bimlesh, Radha & Preeti are living in their respective matrimonial homes in Haryana. Virender was married with Soma (Appellant/Claimant) and having three children, Rani, Prince & Aryan. Virender has expired on 04.05.2023.

8. The Appellant/Claimant has stated that her family is having two Jhuggis, one is bearing Jhuggi No. D-197 and the other is bearing Jhuggi No. D-205. Her in-laws along with their unmarried son, Tinku, are living in Jhuggi No. D-205 and regarding that DDA had made allotment in favour of her mother-in-law, Anguri. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that she along with her husband Virender (till his death on 04.05.2023) & three children is living in the Jhuggi No. D-197, which is a single storey Jhuggi. The Appellant/Claimant has sought allotment form DDA against the said Jhuggi No. D-197 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 710 of 2023. The Appellant/Claimant has tendered her documents, Annexure-A to Annexure-C, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey record along with 6 video clips pertaining to the Jhuggi No. D-197. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 19.05.2023 wherein she has stated that in the video clips, her single storey Jhuggi having the roof made with asbestos sheet is seen and further her brother-in-law, Tinku, is seen and he is heard stating that he is getting the survey conducted in behalf of the present Appellant/Claimant and further the room & kitchen of the Appellant/Claimant are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the single storey pucca Jhuggi No. D-197 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the same for residential purpose.

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11. Accordingly, we have no hesitation in holding that the single storey pucca Jhuggi No. D-197 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is using the same for residential purpose.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor as per the policy guidelines issued by DDA.

13. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-C, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India,

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either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the

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Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

16. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor as per the policy guidelines issued by DDA.

17. The Appellant/Claimant has categorically stated that she is not having a valid Voter ID Card issued in her favour on the address of Jhuggi No. D-197 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 do not arise at all. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. The Appellant/Claimant has tendered her Aadhar Card (Annexure-A), PAN Card (Annexure-B) and Passbook of PNB (Annexure-C).

19. It is pointed out that the Aadhar Card (Annexure-A) has been issued on the address of Jhuggi No. D-197. Further the Passbook of PNB (Annexure-C) shows that the Appellant/Claimant had opened the account on 30.06.2016, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the name of the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and further her name also does not appear in at least on the

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voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. The material placed on file shows that the name of the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-C, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the name of the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

21. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/47.G/772 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

22. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 46 of 2022

Date of Institution: 21.11.2022

Date of Order: 26.05.2023

Present: Appellant/ Claimant Meena W/o Arun D/o Harpal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-191, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-191 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/33.1/766 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 46 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 22.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-191 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Meena, has been recorded before us on 22.05.2023 wherein she has stated that her in-laws, Ram Saran & Kamla, are having two sons; Arun & Sonu. Ram Saran had expired in the year 1989. Sonu is married with Sangeeta and having four children, Prem, Chirag, Nonu & Pari. However, Sangeeta had deserted Sonu and now she is living separately with three children Chirag, Nonu & Pari. Whereas Prem is living with his father Sonu in Bhoomiheen Camp. Arun is married with Meena (Appellant/Claimant) and having one daughter Hansita @ Ansita.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. D-191 and it comprises of one room on each floor and there is a pucca staircase going from outside in the gali to the upper floor. Her mother-in-law, Kamla, along with her son Sonu and his son Prem is living on the ground floor of the said Jhuggi No. D-191 and regarding that DDA had made allotment in favour of her mother-in-law Kamla. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that she along with her husband Arun and daughter is living on the first floor of the said Jhuggi No. D-191. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. D-191 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 46 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey record along with twelve video clips pertaining to the Jhuggi No. D-191. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 22.05.2023 wherein she has stated that in seven video clips, Kamla, mother-in-law of the Appellant/Claimant, is seen on the ground floor of the Jhuggi No. D-191 and her room & kitchen are also seen and further, a separate pucca staircase constructed outside in the gali for going to the first

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floor is also seen. In the remaining five videos, the separate pucca staircase constructed outside in the gali for going to the first floor is seen and further, Meena (Appellant/Claimant) is seen on the first floor of the Jhuggi No. D-191 and her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-191 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-191 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

12. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/18/33.1/766 dated 07.11.2022.

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14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**

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- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

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16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the 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.

19. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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20. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2573228 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C).

21. It is pointed out that the Voter ID Card ARE 2573228 (Annexure-A) has been downloaded on 03.03.2023. The Appellant/Claimant has specifically admitted that she was not having any Voter ID Card and she had got it prepared in the month of March 2023. Accordingly, the question of her name appearing in the voter lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise at all. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having any Voter ID Card on the cut off date of 01.01.2015 and further her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

22. 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-191 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-J), which has been issued in the name of her mother-in-law, Kamla, on 06.12.2014 in which the names of the family members, including that of Appellant/Claimant, have been mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-191 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.

23. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1192442 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) of her husband Arun as well as the Electricity Bill (Annexure-G), Passbook of SBI (Annexure-H), Birth Certificate (Annexure-I), Voter List of the year 2015 (Annexure-K) and the Voter List of the year 2019 (Annexure-L).

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24. It is pointed out that the Voter ID Card No. ARE 1192442 (Annexure-D) of her husband Arun has been issued on 24.04.2010 and further, the name of her husband Arun appears at Sl. No. 797 in the Voter List of the year 2015 (Annexure-K) and at Sl. No. 911 in the Voter List of the year 2019 (Annexure-L). Further, it is pointed out that these documents are of no consequence because as per our discussion above, the Appellant/Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and further her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. It is also pointed out that the Electricity Bill (Annexure-G) shows that the connection has been taken by her mother-in-law, Kamla on 25.04.2008, thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. D-191 regarding which she is claiming allotment from DDA. The Passbook of SBI (Annexure-H) shows that the account was opened on 28.09.2016 and the Birth Certificate (Annexure-I) of Hansita @ Ansita (Annexure-I) shows that she was born on 20.09.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his 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 cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor and further her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and

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further her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, She does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/33.1/766 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	**(Satish Ahlawat)**	**(Rachna Tiwary)**
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

601
Appeal No: ~~60~~ of 2023

Date of Institution: 08.12.2022

Date of Order: 26.05.2023

Present: Appellant/ Claimant Satender S/o Bhagwan Prasad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-52, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-52 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/46.1/1419 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 601 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 16.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-52 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Satender, has been recorded before us on 16.05.2023 wherein he has stated that his parents, Bhagwan & Saraswati, are having two sons, Satender (Appellant/Claimant) & Amit and three daughters; Poonam, Suman & Seema. All except Amit are married. Poonam & Suman are living in their respective matrimonial homes in Mumbai & Vasant Vihar, Delhi. Seema is married with Rehan and she is living with her parents in Bhoomiheen Camp. Satender (Appellant/Claimant) is married with Baby and having two sons, Ayush & Shivam.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. D-52 and it comprises of one room on each floor and there is a pucca staircase going from outside in the gali to the upper floor. The Appellant/Claimant has stated that his parents, Bhagawan & Saraswati, along with their unmarried son Amit as well as the family of Seema are living on the ground floor of the said Jhuggi No. D-52 and regarding that DDA has made allotment in favour of his mother Saraswati. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his wife Baby and both the sons is living on the first floor of his Jhuggi No. D-52. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. D-52, but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 601 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with nine video clips pertaining to Jhuggi No. D-52. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 16.05.2023 wherein he has stated that in five video clips, Saraswati, mother of the Appellant/Claimant, is seen on the ground floor of the Jhuggi No. D-52 and her room & kitchen are also seen. In the remaining four video clips, the Appellant/Claimant and his wife Baby is seen on the first floor of the said Jhuggi No. D-52 and his room & kitchen are also seen and the roof of the room is seen to be made of

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asbestos sheet. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-52 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-52 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

12. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/46.1/1419 dated 07.11.2022.

14. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

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The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.

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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

15. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

16. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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17. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

18. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the 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.

19. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1188390 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2014 (Annexure-I) & Voter List of the year 2019 (Annexure-J).

21. It is pointed out that the Voter ID Card No. ARE 1188390 has been issued on 07.01.2011, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant

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appears at Sl. No. 394 in the Voter List of 2014 (Annexure-I) and at Sl. No. 593 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

22. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-52 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-52 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.

23. The Appellant/Claimant has tendered his Driving License (Annexure-D) as well as Voter ID Card No. ARE 1816890 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Baby and Electricity Bill (Annexure-H).

24. It is pointed out that Driving License (Annexure-D) has been issued on 22.02.2009. The Voter ID Card No. ARE 1816890 (Annexure-E) has been issued on 20.01.2014, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-H) shows that the connection was taken by the Appellant/Claimant in his name on 03.10.2019. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any

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right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and also in the year of survey.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No.. 385/64/46.1/1419 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	**(Satish Ahlawat)**	**(Rachna Tiwary)**
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 631 of 2023

Date of Institution: 26.12.2022

Date of Order: 30.05.2023

Present: Appellant/ Claimant Anokhi Devi W/o Rakesh D/o Gyan Chand

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-110, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-110 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No.

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385/64/88.1/1443 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 631 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 29.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-110 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Anokhi, has been recorded before us on 29.05.2023 wherein she has stated that her in-laws, Pransukh & Ramvati, are having four sons, Rakesh, Bajji, Ghanshyam & Manoj. Ramvati had expired in the year 2001 and Pransukh had expired in the year 2008. Manoj had died unmarried and issueless in 2016. Bajji had expired in the year 1999 and his widow Manju had remarried. Ghanshyam is married with Anita and having three children Vaishali, Shivani & Akash. Ghanshyam had also expired in 2014. Rakesh is married with Anokhi (Appellant/Claimant) and having four children Kavita, Moni, Sadhna & Sidarth. Rakesh had also expired in the year 2006.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. D-110 and it comprises of one room on each floor. Anita, after the death of her husband Ghanshyam, along with her three children is living on the ground floor of the said Jhuggi No. D-110 and regarding that DDA has made allotment in favour of Anita. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that she, after the death of her husband Rakesh in the year 2006, along with her four children is living on the first floor of the said Jhuggi No. D-110. The Appellant/Claimant has sought allotment from DDA against the first floor of Jhuggi No. D-110 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 631 of 2023 before the Appellate Authority. 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.

10. DDA has furnished the survey record along with four video clips pertaining to the Jhuggi No. D-110. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 29.05.2023 wherein she has stated that in two video clips Anita W/o Ghanshyam is seen on the ground floor of the Jhuggi No. D-110 and her room & kitchen are also seen. In the next two video clips, the Appellant/Claimant is seen on the first floor and further her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. D-110 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the first floor of the said Jhuggi for residential purposes.

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11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. D-110 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

13. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-E, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/64/88.1/1443 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation</u>**

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and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.

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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground

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floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

21. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2559607 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

22. It is pointed out that the Voter ID Card No. ARE 2559607 has been issued on 25.11.2021, much after the cut off date of 01.01.2015. Accordingly, the question of the name appearing in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and

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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.

23. The Appellant/Claimant has tendered her Ration Card bearing No. 077004417587 (Annexure-E), which has been issued in favour of the Appellant/Claimant and the names of the family members have been recorded but the date of issuance is not mentioned. The status Report (Annexure-F) downloaded from the Internet shows that the Ration Card bearing No. 077004417587 (Annexure-E) has been approved on 12.09.2014. Thus the Appellant/Claimant was having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-111 regarding which she is claiming allotment from DDA.

24. The Appellant/Claimant has tendered her Electricity Bill (Annexure-F) and it shows that she had taken connection on 22.02.2021 much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

25. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-F, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year

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of survey. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected ~~his~~ her claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/88.1/1443 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 217 of 2023

Date of Institution: 23.11.2022

Date of Order: 29.05.2023

Present: Appellant/ Claimant Seema Saxena W/o Sunil Kumar Saxena

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-111, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-111 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/64/80.1/1436 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 217 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-111 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the Jhuggi No. D-111 as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Seema Saxena, has been recorded before us on 19.05.2023 wherein she has stated that her husband Sunil Saxena had died in the

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year 2008 thereby leaving behind one son Deepak and three daughters, Kamlesh, Neelam & Nisha. All the children except Nisha are married. Neelam is married with Sohan and she is living in her matrimonial home in Lal Kuan, Delhi. Kamlesh is married with Harish and she is living in her matrimonial home in Bhoomiheen Camp. Deepak is married with Suman and having one daughter Anna.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. D-111 and it comprises of one room on each floor and the first floor is not having an independent access from the outside in the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. Deppak Saxena along with his wife is living on the ground floor and he has sought allotment from DDA against the ground floor whereas she (Seema Saxena- Appellant/Claimant) along with her unmarried daughter, Nisha, is living on the first floor and she has sought allotment from DDA against the first floor of the said Jhuggi No. D-111.

9. It is pointed out that the Appellant/Claimant Seema Saxena has stated that the first floor is not having independent access from the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor. This shows that the first floor of the Jhuggi No. D-111 is not separate and independent dwelling units because it is not having an independent access from the gali. However, in order to reach the first floor, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, both the ground & first floors of Jhuggi No. D-111 are not separate and independent dwelling units but both are part and parcel of one dwelling unit of her son Deepak Saxena on the ground floor bearing Jhuggi No. D-111 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant Seema Saxena accordingly shows that the first floor of the Jhuggis No. D-111 is not having any independent access from the gali but in order to reach the upper floor, one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the ground & first floors are not separate and independent dwelling units but they constitute one dwelling unit of her son Deepak Saxena on the ground floor bearing Jhuggi No. D-111 for all purposes.

11. The Appellant/Claimant has stated that her son Deepak Saxena along with his wife Suman & daughter, Anna, is living on the ground floor of the said Jhuggi No. D-111

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and regarding that Deepak Saxena had sought allotment form DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 219 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has also stated that she along with her unmarried daughter, Nisha, is living on the first floor of the said Jhuggi No. D-111. The Appellant/Claimant, has sought allotment from DDA against the first floor of the said Jhuggi No. D-111 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 217 of 2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. It is pointed out that both the Appeals bearing Appeal No. 217 of 2023 and 219 of 2023 shall be decided separately on their individual merits.

14. DDA has furnished the survey record along with five video clips pertaining to the Jhuggi No. D-111. The video clips were played before the Appellant/Claimant, Seema Saxena, when her statement was recorded before us on 19.05.2023 wherein she has stated that in three video clips her son Deepak Saxena is seen on the ground floor of the Jhuggi No. D-111 and his room & kitchen are seen and further, a pucca staircase constructed inside his room on the ground floor and going to the upper floor is also clearly seen. Further, in two video clips, she (Seema Saxena- Appellant/Claimant) is seen on the first floor of the Jhuggi No. D-111 and her room & kitchen on the first floor are also seen.

15. The admissions of Seema Saxena is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first floor of the Jhuggi No. D-111 is not having any independent access from the gali but in order to reach the upper floors one has to use the pucca staircase constructed inside the room on the ground floor. Therefore, the ground & first floor are not separate and independent dwelling units but they constitute one dwelling unit on the ground floor bearing Jhuggi No. D-111 of her son Deepak Saxena for all purposes.

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16. Thereby keeping in view that the ground & first floor of Jhuggi No. D-111 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-111 of her son Deepak Saxena, for all purposes. But two allotments have been sought against the said Jhuggi. Deepak Saxena has sought allotment against the ground floor whereas his mother Seema Saxena (Appellant/Claimant) has sought allotment against the first floor from DDA regarding the said Jhuggi No. D-111, which is found to be single dwelling unit of Deepak Saxena. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since Deepak Saxena has also sought allotment against Jhuggi No. D-111 therefore Seema Saxena (Appellant/Claimant) is not entitled to seek second allotment from DDA against that very Jhuggi No. D-111. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, Seema Saxena cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. D-111 of his son, Deepak Saxen and accordingly the Seema Saxena (Appellant/Claimant) does not fulfill the eligibility criteria as per the guidelines issued by DDA.

17. Accordingly, we have no hesitation in holding that the Jhuggi No. D-111 Bhoomiheen Camp is a pucca double storey structure and it comprises of one room on each floor and the first floor is not having an independent access from the outside in the gali but a pucca staircase has been constructed inside the room on the ground floor for going to the upper floor and further the ground & first floor of Jhuggi No. D-111 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-111 of her son Deepak Saxena, and he along with his family has been using the said Jhuggi for residential purposes. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

18. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of Jhuggi No. D-111 as per the policy guidelines issued by DDA.

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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- M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

20. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper

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floor, the same will also be considered for allotment of a separate dwelling units.

11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

21. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant

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was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the Jhuggi No. D-111 as per the policy guidelines issued by DDA.

23. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Voter List of the year 2012 (Annexure-I), Voter List of the year 2013 (Annexure-J), Voter List of the year 2014 (Annexure-K), Voter List of the year 2015 (Annexure-L) and Voter List of the year 2018 (Annexure-M).

24. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card No. CXY 1088632 (Annexure-A) has been issued on 12.03.2002, much prior to the cut off date of 01.01.2015. The second Voter ID Card No. ARE 2525210 (Annexure-B) has been issued on 26.09.2020, much after the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant also appears at Sl. No. 49 in the Voter List of the year 2012 (Annexure-I) and at Sl. No. 49 in the Voter List of the year 2013 (Annexure-J), at Sl. No. 48 in the Voter List of the year 2014 (Annexure-K), at Sl. No. 62 in the Voter List of the year 2015 (Annexure-L) and at Sl. No. 56 in the Voter List of the year 2018 (Annexure-M). It is pointed out that the Voter Lists, Annexure-I & Annexure-M, the number of Voter ID Card of the Appellant/Claimant is mentioned to be CXY 1088632 and further her address is given to be Jhuggi No. D-111 regarding which she is claiming allotment from DDA. 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 her name also appears in the voter list of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

25. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of her daughter Nisha as well as the Electricity Bill (Annexure-F), her Passbook of Federal Bank (Annexure-G) and Ration Card (Annexure-H).

26. It is pointed out that the Electricity Bill (Annexure-F) shows that the connection has been taken by her daughter Kamlesh on 10.06.2008 on the ground floor of the Jhuggi No. D-111 thereby showing that the Appellant/Claimant was not having connection

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on the first floor of Jhuggi No. D-111 regarding she is claiming allotment from DDA. The Passbook of Federal Bank (Annexure-G) shows that THE Appellant/Claimant had opened the account on 25.07.2017, much after the cutoff date of 01.01.2015. The Ration Card (Annexure-K) has been issued in the name of the Appellant/Claimant on 30.10.2014, much prior to the cutoff date of 01.01.2015. It is pointed out that the abovementioned document is of no help to the Appellant/Claimant because as per our discussion above we have held that the ground & first floor of Jhuggi No. D-111 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. D-111 of her son, Deepak Saxena, for all purposes and the said Deepak Saxena has also sought allotment from DDA regarding the said Jhuggi No. D-111. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/Claimant is not entitled to seek second allotment from DDA against that very Jhuggi No. D-111.

27. The material placed on file shows that both the floors of Jhuggi No. D-111 has been found to be one dwelling unit bearing Jhuggi No. D-111 of her son, Deepak Saxena, for all purposes and the said Deepak Saxena has also sought allotment from DDA regarding the said Jhuggi No. D-111. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that both the floors of Jhuggi No. D-111 has also been found to be one dwelling unit bearing Jhuggi No. D-111 of her son, Deepak Saxena, for all purposes and the said Deepak Saxena has also sought allotment from DDA regarding the said Jhuggi No. D-111. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/64/80.1/1436 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal is dismissed being devoid of any merit.

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29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 369 of 2023

Date of Institution: 29.11.2022

Date of Order: 30.05.2023

Present: None for the Appellant/ Claimant Afzal Raja S/o Abdul Khalik

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. D-5, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-5 was found to exist on the ground floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/19/12.G/800 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 369 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-5 was found to exist on the ground floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the

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same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued for 17.01.2023 to procure the appearance of the present Appellant/ Claimant but he had failed to appear inspite of due service. Instead one Mohd. Yusuf Rafi S/o Late Mohd. Rafi had appeared on 17.01.2023 and stated that Jhuggi No. D-5 belongs to his family but the survey was wrongly got conducted by the Appellant/ Claimant, who was Maulvi in the Mosque and he used to teach students. Accordingly, on 17.01.2023 fresh notice was issued for 05.04.2023 with the direction that in addition to serving of notice he may also be contacted on the mobile number mentioned in DDA records. But none appeared on 05.04.2023 and thereafter also on 02.05.2023, 18.05.2023 & 19.05.2023.

7. On 19.05.2023 fresh notice was issued for 22.05.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number. The perusal of Zimni orders shows that the Appellant/Claimant had failed to appear, despite issuance of notice, on 22.05.2023, 23.05.2023, 24.05.2023, 25.05.2023 and thereafter even on 26.05.2023.

8. On 26.05.2023 one Ms. Snah, who claimed to be relative of the Appellant/Claimant, had appeared and intimated that the Appellant/Claimant, Afzal Raja, shall appear on the next date of hearing. The Assistant Director, DDA, had also submitted a report thereby showing that despite of efforts being made, the Appellant/Claimant is not traceable and the Jhuggi was also found to be locked. The Appellant/Claimant was also contacted through mobile number provided in the representation made by the Appellant/Claimant but in futility. Furthermore, an attempt was also made to get the notice served in person by sending an official attached with the Appellate Authority but without any response. This shows that the Appellant/Claimant is avoiding appearing before the Appellate Authority. But one more opportunity was given to procure the presence of the

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Appellant/Claimant and the appeal was adjourned to 29.05.2023 for procuring his presence.

9. However, still none appeared on 29.05.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 30.05.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 30.05.2023 inspite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 369 of 2023 instituted on 29.11.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

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13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/19/12.G/800 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 369 of 2023 instituted on 29.11.2022 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

30/5/2023	30/5/2023	30/5/2023
(Ranbir Singh)	**(Satish Ahlawat)**	**(Rachna Tiwary)**
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 426 of 2023

Date of Institution: 29.11.2022

Date of Order: 30.05.2023

Present: None for the Appellant/Claimant Meenu Keswani W/o Prem Kumar D/o Heera Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-38, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-38 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No.

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385/66/97.G/1500 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 426 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-38 was found to exist on the ground floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure her presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued for 23.01.2023 to procure the appearance of the present Appellant/ Claimant but she had failed to appear in spite of due service. Accordingly, on 23.01.2023 fresh notice was issued for 26.05.2023 with the direction that in addition to serving of notice she may also be contacted on the mobile number mentioned in DDA records. But the file was taken up on 08.05.2023 and the appeal was adjourned to 16.05.2023 for conducting further proceedings. But none appeared on 16.05.2023, 18.05.2023 and thereafter also on 19.05.2023.

7. On 19.05.2023 fresh notice was issued for 22.05.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number. The perusal of Zimni orders shows that the Appellant/Claimant had failed to appear, despite issuance of notice, on 22.05.2023, 23.05.2023, 24.05.2023, 25.05.2023 and thereafter even on 26.05.2023.

8. On 26.05.2023 the Assistant Director, DDA, had also submitted a report thereby showing that despite of efforts being made, the Appellant/Claimant is not traceable and the Jhuggi was also found to be locked. The Appellant/Claimant was also contacted through mobile number provided in the representation made by the Appellant/Claimant but in futility. Furthermore, an attempt was also made to get the notice served in person by sending an official attached with the Appellate Authority but without any response. This shows that the Appellant/Claimant is avoiding appearing before the Appellate Authority. But one more opportunity was given to procure the presence of the Appellant/Claimant and the appeal was adjourned to 29.05.2023 for procuring her presence.

9. However, still none appeared on 29.05.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 30.05.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an

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attempt be also made to intimate the Appellant/Claimant by calling her on his mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 30.05.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue her Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 426 of 2023 instituted on 29.11.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/97.G/1500 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 426 of 2023 instituted on 29.11.2022 is dismissed being devoid of any merit.

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14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 626 of 2023

Date of Institution: 21.12.2022

Date of Order: 30.05.2023

Present: None for the Appellant/Claimant Afsana W/o Salim

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. D-23, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. D-23 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No.

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385/63/7.1/1361 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 626 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. D-23 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure her presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued for 10.02.2023 to procure the appearance of the present Appellant/ Claimant but she had failed to appear in spite of due service. Accordingly, on 10.02.2023 fresh notice was issued for 19.06.2023 with the direction that in addition to serving of notice she may also be contacted on the mobile number mentioned in DDA records. But the file was taken up on 08.05.2023 and the appeal was adjourned to 16.05.2023 for conducting further proceedings. But none appeared on 16.05.2023, 18.05.2023 and thereafter also on 19.05.2023.

7. On 19.05.2023 fresh notice was issued for 22.05.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number. The perusal of Zimni orders shows that the Appellant/Claimant had failed to appear, despite issuance of notice, on 22.05.2023, 23.05.2023, 24.05.2023, 25.05.2023 and thereafter even on 26.05.2023.

8. On 26.05.2023 the Assistant Director, DDA, had also submitted a report thereby showing that despite of efforts being made, the Appellant/Claimant is not traceable and the Jhuggi was also found to be locked. The Appellant/Claimant was also contacted through mobile number provided in the representation made by the Appellant/Claimant but in futility. Furthermore, an attempt was also made to get the notice served in person by sending an official attached with the Appellate Authority but without any response. This shows that the Appellant/Claimant is avoiding appearing before the Appellate Authority. But one more opportunity was given to procure the presence of the Appellant/Claimant and the appeal was adjourned to 29.05.2023 for procuring her presence.

9. However, still none appeared on 29.05.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 30.05.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an

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attempt be also made to intimate the Appellant/Claimant by calling her on his mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 30.05.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue her Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 626 of 2023 instituted on 21.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

11. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card a separate Ration Card & voter lists etc. as on 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/7.1/1361 dated

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07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 626 of 2023 instituted on 21.12.2022 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 332 of 2022

Date of Institution: 28.11.2022

Date of Order: 31.05.2023

Present: Appellant/ Claimant Sanjay Mahto S/o Dalip Mahto

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-3, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-3 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/80.1/1228 dated 07.11.2022 to the present Appellant/Claimant.

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Aggrieved by the same, the present Appeal No. 332 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 21.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-3 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Sanjay has been recorded before us on 21.04.2023 wherein he has stated that his parents, Dalip & Lal Pari, are having two sons;

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Raju & Sanjay and two daughters; Rita & Sita. Lal Pari has expired in the year 2019. All the children are married. Both the daughters Rita & Sita are living in their respective matrimonial homes. Sanjay is married with Maha Laxmi and having one son Aditya. Raju (Appellant/Claimant) is married with Sangita and having one son Vicky.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-3 and it comprises of one room on the ground floor and two rooms on the first floor. His father Dalip is living on the ground floor of the said Jhuggi No. A-3 and regarding that DDA has made allotment in favour of his father Dalip. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his brother Raju along with his family is living in one of the rooms on the first floor bearing Jhuggi No. A-3 and regarding that Raju 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. 146 of 2022 before the Appellate Authority. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Maha Laxmi and son Aditya is living in the second room on the first floor of the said Jhuggi No. A-3. The Appellant/Claimant has sought allotment from DDA against the said room on the first floor of Jhuggi No. A-3 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 332 of 2022. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with nine video clips pertaining to Jhuggi No. A-3. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 21.04.2023. In four video clips, Dalip is seen on the ground floor of the Jhuggi No. A-3 and his room & kitchen are also seen and a pucca staircase from outside the gali going to the upper floor is also seen. The next two videos a pucca staircase from outside to the first floor is seen and the room & kitchen of Sanjay (Appellant/Claimant) on the first floor of Jhuggi No. A-3 is seen and further, the roof made of asbestos sheet is also seen. In the next three videos, Rita who is the sister of Raju is seen getting the survey conducted on his behalf and further, no room is seen but only a kitchen is seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. A-3 was in existence

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in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and it comprises of one room on the ground floor and one room on the first floor whereas the second room on the first floor is a kitchen and not a room as wrongly alleged by Raju. Dalip, who is the father of the present Appellant/ Claimant is living on the ground floor and Sanjay (Appellant/Claimant) is living in one of the room on the first floor. Thus there was no second room, which can be used by Raju for residential purposes as it is found to be a kitchen. This shows that Raju has come forward with a wrong and false story to claim allotment from DDA by hook or crook.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-342 Bhoomiheen Camp is a pucca structure and Dalip, who is the father of the present Appellant/ Claimant, is living on the ground floor and Sanjay (Appellant/Claimant) is living in one of the room on the first floor. But there was no second room, which can be used by Raju for residential purposes as it is found to be a kitchen. Therefore, the Appellant/Claimant was using one of the rooms on the first floor of the said Jhuggi for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the

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Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/6/80.1/1228 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and

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other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list 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

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of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1504208 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and the Voter List of the year 2012 (Annexure-L).

23. It is pointed out that the Voter ID Card CXY 1504208 (Annexure-A) has been issued on 19.11.2005, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 87 in the voter List of the year 2012 (Annexure-L). However, no material is placed on file to show that the Appellant/Claimant had used the Voter ID Card No. CXY 1504208 (Annexure-A) to cast his vote after 2012 and onwards. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 but no material is placed on file to show that the Appellant/Claimant had used the Voter ID Card No. CXY 1504208 (Annexure-A) to cast his vote after 2012 and onwards and his name does not appear in the voter list of the year's 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has 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-3 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-K), which has been issued in the name of his mother, Lal Pari, on 29.11.2014 and the name of the Appellant/Claimant has been mentioned therein. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-3 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

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guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Driving License (Annexure-D), Electricity Bill (Annexure-E), Passbook of PNB (Annexure-F), e-Shram Card (Annexure-G) as well as the Aadhar Card (Annexure-H), PAN Card (Annexure-I) and e-Shram Card of his wife Maha Lakshmi.

26. It is pointed out that the Driving License (Annexure-D) has been issued on 29.01.2014 & Passbook of PNB (Annexure-F) shows that the account has been opened on 16.11.2010. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant has taken the electricity connection on 03.11.2016, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and his name also does not appear in the voter list of the year's 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 in spite of the fact that he was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year 2012.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per

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guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/6/80.1/1228 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**