KALI BARI, SHALIMAR BAGH, GOLDEN PARK COLONY, ALLOWED/REJECTED CASE LIST OF 01.02.2025 TO 28-02-2025 FEBRUARY 2025

Sr.	Appl No	Year	Appl. Date	Applicant Name	Father Name	Jhuggi	Decision	ORDER DATE
1	10-KB	2024	30-08-2024	Nand Kishore	Ram Prasad	C-33/22	Rejected	10-02-2025
2	13-KB	2024	30-08-2024	Benhachal	Gomti Prasad	C-33/58, K-Blk	Rejected	10-02-2025
3	14-SB	2024	16-05-2024	Pinki	Prahlad	T-257	Rejected	12-02-2025
4	15-SB	2024	16-05-2024	Bhagola	Hirua	54/195	Rejected	12-02-2025
5	05-SB	2024	16-05-2024	Dharam Pal	Kallu	N-54/132	Rejected	13-02-2025
6	01-SB	2024	16-05-2024	Pooja	Sumit	157	Rejected	13-02-2025
7	04-SB	2024	16-05-2024	Abhishek	Vinod Kumar	T-54/26	Rejected	14-02-2025
8	06-SB	2024	16-05-2024	Pooja Kumari	Mahesh Rai	177	Rejected	14-02-2025
9	12-SB	2024	16-05-2024	Sharvan Kumar	Mahender Das	T-54/121	Rejected	17-02-2025
10	13-SB	2024	16-05-2024	Subhankar Biswas	Shankar Biswas	217	Rejected	17-02-2025
11	16-SB	2024	16-05-2024	Sunil Kumar	Bhagwan Das	337	Rejected	18-02-2025
12	18-SB	2024	30-08-2024	Harpal	Bagone	T-50, BG-1	Rejected	18-02-2025
13	60-GP	2024	04-11-2024	Krishna	Sunil Kumar	442	Rejected	18-02-2025
14	06-KB	2024	30-08-2024	Pushpa	Surender	C-33/R-10	**Allowed**	18-02-2025
15	02-GP	2024	04-11-2024	Manisha Ahirwar	Bali Ram	B-12	Rejected	25-02-2025

16	22-GP	2024	04-11-2024	Rajesh	Phool Chand	62	Rejected	25-02-2025
17	26-GP	2024	04-11-2024	Rakesh Kumar	Upender	A-71	Rejected	25-02-2025
18	09-KB	2024	30-08-2024	Chinta Devi	Mool Chand	C-33/R-6	**Allowed**	25-02-2025
19	11-KB	2024	30-08-2024	Rajesh	Mool Chand	C-33/R-6	**Allowed**	25-02-2025
20	17-GP	2024	04-11-2024	Ajay	Shyam Lal	3	Rejected	27-02-2025
21	33-GP	2024	04-11-2024	Salman	Sant Ram	B-3	Rejected	27-02-2025
22	38-GP	2024	04-11-2024	Santo	Shyam Lal	70	Rejected	27-02-2025
23	39-GP	2024	04-11-2024	Saljeet	Shyam lal	3	Rejected	27-02-2025
24	19-GP	2024	04-11-2024	Shyam Narayan	Moti Lal	28	Rejected	27-02-2025
25	03-SB	2024	16-05-2024	Mahesh Kumar	Ganga Ram	N-54/63	Rejected	27-02-2025
26	23-GP	2024	04-11-2024	Kabir	Malakawa	A-7	Rejected	28-02-2025
27	32-GP	2024	04-11-2024	Rahul	Ram Karan	A-45	Rejected	28-02-2025
28	08-SB	2024	16-05-2024	Deepak	Chheda Ram	222	Rejected	28-02-2025
29	21-GP	2024	04-11-2024	Ram Kumar Sah	Gauri Shah	J-31	Rejected	28-02-2025
30	17-SB	2024	16-05-2024	Kanhiya Lal	Kishan Lal	T-54/100	Rejected	28-02-2025

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF KALI BARI, RML, DELHI

Appeal No: 10/KB/2024

Date of Institution: 30.08.2024

Date of Order: 10.02.2025

Present: The Appellant Nand Kishore S/o Ram Prasad

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

ORDER

1. This order disposes off the present appeal filed by the Appellant against order dated 25.03.2024 passed by the Eligibility Determination Committee.

2. In brief, Rekha (Applicant), who is the wife of the present Appellant, Nand Kishor, had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-33/22, Kali Bari, RML, Delhi. A Public Notice by DDA was pasted in the Kali Bari, RML, Delhi to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Kali Bari. The Applicant Rekha had submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Applicant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 01.12.2023 thereby intimating the dwellers about organizing of a camp by DDA from 26.12.2023 to 29.12.2023 at DDA site office Kali Bari, RML, Delhi wherein the Applicant was given an opportunity for submission of required documents but the Applicant had failed to submit requisite documents. As per survey record, the Applicant's Jhuggi bearing No. C-33/22 was found to exist but it was found

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to have been used exclusively for commercial purposes and further 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 Applicant Rekha for alternative allotment and the Nodal Officer, Kali Bari, duly communicated its order bearing No. F2(ISR)/RML/83/2023 dated 25.03.2024 to the Applicant, which was duly received against acknowledgment by her husband, Nand Kishor. Aggrieved by the same, the Applicant Rekha had chosen not to file an appeal to challenge the impugned rejection order but the present Appeal No. 10/KB/2024 has been filed by Nand Kishor (Appellant), who is the husband of the Applicant (Rekha) in his individual capacity.

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

4. The statement of the Appellant Nand Kishor as well his wife Rekha (Applicant) have been recorded before us on 24.12.2024. He has also tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z5, 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 Nand Kishor as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Applicant's Jhuggi bearing No. C-33/22, Kali Bari, RML, Delhi was found to be used for commercial purposes and further 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 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 Applicant, which was communicated to her by the Nodal Officer vide Rejection Order dated 25.03.2024 whereby the reasons for rejection is mentioned to be **"No dwelling unit shall be allotted if the jhuggi is used solely for the Commercial purpose"** and aggrieved by the same the Applicant Rekha had preferred not to challenge the rejection order because she has not filed any appeal but instead her husband, Nand Kishor (Appellant), has come before us by way of filing the present Appeal Appeal No. 10/KB/2024 in his individual capacity.

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7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant Nand Kishor vis a vis to the Applicant Rekha. We shall appraise the material placed on file to determine as to whether the Applicant was using the Jhuggi No. C-33/22, Kali Bari , RML, Delhi on the cutoff date of 01.01.2015 exclusively for commercial purposes or it was used exclusively for residential purposes and/or it was put to mixed use for residential-cum-commercial purposes and further whether the Applicant 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 the Applicant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether the Applicant is entitled to claim allotment against the Jhuggi No. C-33/22, Kali Bari , RML, Delhi as per the policy guidelines issued by DDA.

8. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

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

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Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

9. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi

or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

10. As already pointed out above, condition contained in Clause 1 (8) & (9) of Part–B of DDA policy runs as under:

"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

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

11. Thus the policy guideline issued by DDA stipulates that the commercial use of Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit. In the light of our discussion above, we shall appraise the material placed on file to determines as to whether the Applicant is entitled to claim allotment against the said single storey Jhuggi No. C-33/22, Kali Bari, RML, Delhi as per the policy guidelines issued by DDA.

12. Firstly, we shall appraise the material placed on file to determine as to whether the Applicant was using the Jhuggi No. C-33/22, Kali Bari, RML, Delhi, exclusively for commercial purposes or it was put to mixed use for residential-cum-commercial purposes. Secondly, in the later part of this order we shall appraise the material placed on file to determines as to whether the Applicant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

13. Now we shall appraise the material placed on file to determine as to whether the Applicant was using the Jhuggi No. C-33/22, Kali Bari, RML, Delhi, exclusively for commercial purposes or it was put to mixed use for residential-cum-commercial purposes.

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14. The fact of the present Appeal is very peculiar in nature because, the Applicant Rekha W/o Nand Kishore has sought alternative allotment from DDA against the single storey Jhuggi No. C-33/22, Kali Bari, RML, Delhi and her claim was rejected by Eligibility Determination Committee on the ground that the said Jhuggi was found to have been used for commercial purposes. But the Applicant Rekha W/o Nand Kishore has not filed any Appeal against the Rejection Order before the Appellate Authority but instead her husband Nand Kishore (Appellant) has filed the present Appeal No. 10-KB of 2024 because of the simple reasons that on the cutoff date of 01.01.2015 the Applicant Rekha was not having requisite documents as per the policy/guidelines issued by DDA.

15. The statements of Rekha (Applicant) as well as Nand Kishore (Appellant) have been recorded before us on 24.12.2024. The gist of their statements gives the following factual matrix to the effect that Rekha is married with Nand Kishore and having two children; Pratham & Nandani. Both the children are unmarried. Nand Kishore & Rekha along with their children were living in the single storey Jhuggi No. C-33/22, Kali Bari, RML, Delhi and the roof of their Jhuggi was made with asbestos sheet and regarding that the Applicant Rekha had sought alternative allotment from DDA but her claim was rejected by Eligibility Determination Committee on the ground that her Jhuggi was found to have been used solely for commercial purposes and accordingly, aggrieved by the same, the Appellant/Claimant Nand Kishore has filed the present Appeal No. 10-KB of 2024 before the Appellate Authority for redressal. The Appellant/Claimant Nand Kishore has also tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z5, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. At the very outset, it is pointed out that the present Appeal No. 10-KB or 2024 is not maintainable because the Appellant Nand Kishore is not the Applicant but instead his wife Rekha is the Applicant and she has sought alternative allotment from DDA against the Jhuggi No. C-33/22 and further, her claim was rejected by Eligibility Determination Committee on the ground that her Jhuggi was found to be used solely for commercial purposes. Therefore, the Applicant Rekha was entitled to file an Appeal against the Rejection Order dated 25.03.2024 if she had felt aggrieved by the same but she preferred not to file an Appeal against the Rejection Order dated 25.03.2024. In view of the matter the impugned Rejection Order dated 25.03.2024 has attained finality.

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17. Further, Nand Kishore (Appellant), who is the husband of the Applicant Rekha has filed the present Appeal even though he was not an applicant before the Eligibility Determination Committee and accordingly, he has no locus standi to challenge the Rejection Order dated 25.03.2024 in his individual capacity. Therefore, the present Appeal deserves to be dismissed in toto being not maintainable. However, instead of dismissing the present appeal summarily, this Appellate Authority, in the interest of justice and for complete adjudication of the case, shall decide the eligibility of the applicant Rekha on all the parameters on merits as per the policy guidelines issued by DDA.

SURVEY RECORDS & VIDEO CLIPS PREPARED BY THE SURVEY TEAM OF DDA

18. DDA has furnished survey records along with two video clips. The video clips were played before the Appellant Nand Kishore and his wife Rekha (Applicant) when their statements were recorded before us on 24.12.2024 wherein they have stated that in the video clips in which both (Nand Lal & Rekha) of them are seen and getting the survey conducted and the Jhuggi is seen having an iron gate on which **"83 Commercial"** is seen to have been written and further, their Room & kitchen are seen and furthermore, Nand Kishore is seen holding a slate in his hand on which **"Sr. No. 86 Survey No. 83 Jh. NO. C-33/22 NAND KISHOR G.F"** is seen to have been written.

RANDOM SURVEY & VIDEO CLIPS PREPARED BY THE SURVEY TEAM OF DDA

19. The survey team of DDA has conducted random survey in Kali Bari, RML, Delhi and has also prepared random video clips. The video clips were played before the Appellant Nand Kishore and his wife Rekha (Applicant) when their statements were recorded before us on 24.12.2024 wherein they have stated that in the first video clip their Jhuggi is seen to be lying locked and further, the Jhuggi is seen to be situated on the main road and several shops are seen to be running in the vicinity.

Pen drive (Annexure-Z-4) tendered by the Appellant

20. The Appellant Nand Kishore has also tendered a Pen drive (Annexure-Z-4) thereby showing that the Video clip was prepared at the time of the demolition drive conducted by DDA team in the Kali Bari, RML, Delhi and JCB is seen demolishing the corner Jhuggi. However, it is pertinent to point out that no Video clip was got prepared by the Appellant Nand Kishore of the Jhuggi in normal condition to show its nature & the purposes for it was used, thereby,

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showing that both the the Applicant Rekha and her husband Nand Kishor (Appellant) are trying to conceal material facts and they are desperate to grab allotment from DDA.

21. The survey records & video clip prepared by the survey team of DDA material placed shows that the Jhuggi No. C-33/22 is seen having an iron gate on which **"83 Commercial"** is seen to have been written and it creates doubt & suspicion about the genuineness of the claim put forward by the Applicant Rekha.

22. It is pointed out that the Appellant/Claimant has tendered the Survey Performa (Annexure-Z5) in support of her claim. The bare perusal of the same shows that it is un-dated but it is signed by the Appellant/Claimant, and further it bears the signatures of the members of the Redevelopment Committee. The Chairman of the Redevelopment Committee had signed the Performa on 26.12.2023 which fixes the time of making of the application for survey in the year 2023. It is pertinent to point out that the Appellant/Claimant had submitted the Survey Performa (Annexure-Z5) in the year 2023 for getting the survey conducted of her Jhuggi No. C-33/22, Kali Bari, RML, Delhi and ***in "Column No. 5 of Jhuggi Type,*** *the* Jhuggi No. C-33/22 is mentioned to be ***"Commercial"*** by the Appellant/Claimant. This admission of the Appellant/Claimant is a clincher piece of evidence.

23. It is not out of context to point out that had Jhuggi No. C-33/22, Kali Bari, RML, Delhi being used by the Appellant/Claimant for residential or residential-cum-Commercial purposes then she would have certainly made entries in the Survey Performa (Annexure-Z5) to that effect and accordingly had not shown it to have been used exclusively for commercial purposes.

24. Furthermore, the Applicant Rekha has sought allotment from DDA against Jhuggi No. C-33/22, Kali Bari, RML, Delhi and in the video clip instead of the Applicant Rekha, her husband Nand Kishor (Appellant), in his individual capacity is getting the survey conducted and he is seen holding a slate in his hand on which **"Sr. No. 86 Survey No. 83 Jh. NO. C-33/22 NAND KISHOR G.F"** is seen to have been written. As already pointed out above, the present Appeal No. 10-KB of 2024 is not maintainable because the Appellant Nand Kishore is not the Applicant but instead his wife Rekha is the Applicant and she has sought alternative allotment from DDA against the Jhuggi No. C-33/22 and further, her claim was rejected by Eligibility Determination Committee on the ground that her Jhuggi was found to be used solely for commercial purposes. Therefore, the Applicant Rekha was entitled to file an

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Appeal against the Rejection Order dated 25.03.2024 if she had felt aggrieved by the same but she preferred not to file an Appeal against the Rejection Order dated 25.03.2024. In view of the matter the impugned Rejection Order dated 25.03.2024 has attained finality. However, very surprisingly, her husband Nand Kishore (Appellant) has filed the present Appeal even though he was not applicant before the Eligibility Determination Committee and accordingly, he has no locus standi to challenge the Rejection Order dated 25.03.2024 in his individual capacity. This shows that the Applicant Rekha and her husband Nand Kishore (Appellant) has not only been changing their roles but they having been swapping their places as per their convenience with the dishonest & fraudulent intention to cheat & defraud DDA in order to grab allotment from DDA by hook or crook.

25. The Survey Records & video clips prepared by the survey team of DDA as well as the video clips prepared in the random survey by the survey team of DDA and the Survey Performa (Annexure-Z5) shows that on the cutoff date of 01.01.2015 the Jhuggi bearing No. C-33/22, Kali Bari, RML, Delhi has been used exclusively for commercial purposes and no material is placed on file to show that it has been used either for residential purposes or put to mixed use residential-cum-commercial purposes.

26. As already pointed out above, condition contained in Clause 1 (8) & (9) of Part–B of DDA policy runs as under: -

> *"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."*
>
> *"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."*

27. The material placed on file shows that the EDC has rightly found that on the cutoff date of 01.01.2015 the Jhuggi No. C-33/22, Kali Bari, RML, Delhi was exclusively used for commercial purposes and accordingly, the Applicant Rekha does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

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28. Now we shall appraise the material placed on file to determine the eligibility of the Applicant Rekha on other parameters also as to whether the Applicant Rekha was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Applicant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. C-33/22, Kali Bari, RML, Delhi as per the policy guidelines issued by DDA.

29. The Appellant Nand Kishor has stated that the claim has been wrongly rejected by DDA. He has tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z5, in support of his claim and prayed that DDA be directed to make allotment in his favour.

30. The Appellant Nand Kishor has tendered the Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-L) and Voter List of the year 2023 (Annexure-F) of his wife Rekha (Applicant) in support of his claim.

31. It is pointed out that the Voter ID bearing No. SJE 2070142 (Annexure-A) of his wife Rekha (Applicant) has been issued on 06.03.2019, much after the cut off date of 01.01.2015 and accordingly the question of her name appearing in any Voter List of the year 2012 to 2015 does not arise. The Aadhar Card (Annexure-B) of Rekha is bearing No. 2148 4625 0076 and it has also been issued on 02.08.2015, much after the cut off date of 01.01.2015. Further, the name of Rekha W/o Nand Kishore appears at Sl. No. 616 in the Voter List of the year 2023 (Annexure-F). It is pointed out that Rekha W/o Nand Kishore (Applicant) had sought allotment from DDA against the Jhuggi No. C-33/22 and her claim was rejected by Eligibility Determination Committee on the ground that her Jhuggi was found to have been used exclusively for commercial purposes and accordingly, the Rejection Order dated 25.07.2024 was conveyed to her but she had preferred not to file Appeal before this Appellate Authority against the said Rejection Order but instead her husband Nand Kishore S/o Ram Prasad (Appellant) had filed the present Appeal, even though he is not having any locus standi. Furthermore, as mentioned above, the material placed on file shows that the original Applicant Rekha W/o Nand Kishore was not having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. C-33/22, regarding which she has claimed allotment from DDA and further her name does not appear in Voter Lists of the year

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2012 to 2015, therefore, Rekha W/o Nand Kishore (Applicant) is not eligible to claim alternative allotment from DDA as per the policy guidelines issued by DDA. Thus the Appellant Nand Kishor is not eligible to seek allotment from DDA because he has not claimed allotment from DDA in his individual capacity but in the present appeal he has been claiming allotment under the Applicant Rekha.

32. Therefore, we have no hesitation in holding that the Applicant Rekha was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and further, her name also does not appear in the Voter Lists of the year 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further as per our discussion above we have held that on the cutoff date of 01.01.2015 the Jhuggi No. C-33/22, Kali Bari, RML, Delhi was exclusively used for commercial purposes, therefore, neither the Applicant Rekha nor her husband Nand Kishore S/o Ram Prasad (Appellant) fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

33. The Appellant Nand Kishor has tendered the Gas Connection Record (Annexure-C), Passbook of Bank of Baroda (Annexure-D), two Ration Cards (Annexure-E & Annexure-N), Caste Certificate (Annexure-I), Passbook of SBI (Annexure-J), Driving Licence (Annexure-M) & Electricity Bill (Annexure-O) in support of his claim.

34. It is pointed out that the Gas Connection Record (Annexure-C) shows that the Applicant Rekha has taken the gas connection on 26.08.2019, much after the cut off date of 01.01.2015. The Passbook of Bank of Baroda (Annexure-D) shows that the Applicant Rekha has opened the account on 16.04.2015, much after the cut off date of 01.01.2015. The old Ration Card (Annexure-N) is bearing No. APL 02030339 and it has been issued in favour of Nand Kishore and the name of his wife Rekha is mentioned and it has been issued on 02.08.2005 on the address of the Jhuggi No. 96G, Kali Bari Marg and not on the address of the Jhuggi No. C-33-22, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly, this document is not relevant to determine the eligibility of the Applicant Rekha. The new Ration Card (Annexure-E) is bearing No. 077005266134 and it has been issued in favour of Nand Kishore on 26.08.2020, much

after the cut off date of 01.01.2015 and the name of her children Pratham & Nandini are mentioned but the name of the Applicant Rekha is conspicuously missing.

35. The Caste Certificate (Annexure-I) of Nand Kishore has been issued on 30.08.1996. The Passbook of State Bank of India (Annexure-J) shows that Nand Kishore has opened the account but the date of opening the account is not mentioned therein. The Driving Licence (Annexure-M) of Nand Kishore has been issued on 24.10.2019, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-O) shows that Nand Kishroe had taken the electricity connection on 24.03.2018, much after the cut off date of 01.01.2015.

36. The Appellant Nand Kishor has tendered his Voter ID Card No. DL/01/002/108366 (Annexure-G), Aadhar Card (Annexure-H), PAN Cad (Annexure-K), the Letter No. F. No.(14)/AC-40/Misc./2024/615 dated 28.11.2024 (Annexure-P) issued by AERO, AC-40, New Delhi, Voter List of the year 2012 (Annexure-Q), Voter List of the year 2013 (Annexure-R), Voter List of the year 2014 (Annexure-S), Voter List of the year 2015 (Annexure-T), Voter List of the year 2016 (Annexure-U), Voter List of the year 2017 (Annexure-V), Voter List of the year 2018 (Annexure-W), Voter List of the year 2019 (Annexure-X), Voter List of the year 2020 (Annexure-Y), Voter List of the year 2021 (Annexure-Z), Voter List of the year 2022 (Annexure-Z1), Voter List of the year 2023 (Annexure-Z2) & Voter List of the year 2024 (Annexure-Z3) in support of his claim.

37. It is pointed out that the Voter ID Card No. DL/01/002/108366 (Annexure-G) of Nand Kishore has been issued on 10.03.1995 and further, his Aadhar Card (Annexure-H) is bearing No. 6903 6411 5269 and it has been issued on 21.04.2015. Furthermore, the Letter No. F. No.(14)/AC-40/Misc./2024/615 dated 28.11.2024 (Annexure-P) issued by AERO, AC-40, New Delhi shows that the Voter ID Card No. DL/01/002/108366 (Annexure-G) of Nand Kishore is reflected in the Voter List of the year 2012 to 2024. Moreover, the name of Nand Kishore appears at Sl. No. 1025 in the Voter List of the year 2012 (Annexure-Q), at Sl. No. 1025 in the Voter List of the year 2013 (Annexure-R), at Sl. No. 990 in the Voter List of the year 2014 (Annexure-S), at Sl. No. 1061 in the Voter List of the year 2015 (Annexure-T), at Sl. No. 1050 in the Voter List of the year 2016 (Annexure-U), at Sl. No. 1047 in the Voter List of the year 2017 (Annexure-V), at Sl. No 1051 in the Voter List of the year 2018 (Annexure-W) & at Sl.

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No. 1065 in the Voter List of the year 2019 (Annexure-X). Further, in all these Voter Lists (Annexure-Q to Annexure-X), the number of the Voter ID Card of Nand Kishore has been mentioned to be DL/01/002/108366, which has been tendered by Nand Kishore as Annexure-G but very surprisingly the address is not mentioned. Furthermore, name of Nand Kishore appears at Sl. No. 1134 in the Voter List of the year 2020 (Annexure-Y), at Sl. No. 1116 in the Voter List of the year 2021 (Annexure-Z), at Sl. No. 1104 in the Voter List of the year 2022 (Annexure-Z1), at Sl. No. 978 in the Voter List of the year 2023 (Annexure-Z2) & at Sl. No. 973 in the Voter List of the year 2024 (Annexure-Z3). Further, it is pointed out that in all these Voter Lists (Annexure-Y to Annexure-Z3) the address is not mentioned and further the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2208700 but it is pertinent to point out that this Voter ID Card has not been placed on file by Nand Kishore and the reasons for not tendering of this Voter ID Card has not been explained and this creates doubt & suspicion. It is pointed out that in the Voter ID Card No. DL/01/002/108366 (Annexure-G) as well as in Voter List of the year 2012 to 2024 (Annexure-Q to Annexure-Z, Annexure-Z1 & Annexure-Z3) the address is not mentioned and accordingly these documents are not material. 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 this Appellate Authority has held that the Applicant Rekha was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and further, her name also does not appear in the Voter Lists of the year 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further as per our discussion above we have held that on the cutoff date of 01.01.2015 the Jhuggi No. C-33/22, Kali Bari, RML, Delhi was exclusively used for commercial purposes, therefore, neither the Applicant Rekha nor her husband Nand Kishore S/o Ram Prasad (Appellant) fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

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

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

39. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Applicant Rekha is not entitled to alternative allotment because as per our discussion above this Appellate Authority has held that the Applicant Rekha was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and further, her name also does not appear in the Voter Lists of the year 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further as per our discussion above we have held that on the cutoff date of 01.01.2015 the Jhuggi No. C-33/22, Kali Bari, RML, Delhi was exclusively used for commercial purposes, therefore, neither the Applicant Rekha nor her husband Nand Kishore S/o Ram Prasad (Appellant) fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA. Moreover, the material placed on file shows that the Applicant Rekha had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Applicant Rekha with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z5, furnished by the Appellant do not create any legal right, title and interest in her favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that neither the Applicant Rekha nor her husband Nand Kishore S/o Ram Prasad (Appellant) fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA and accordingly the claim of the Applicant Rekha was rightly rejected by EDC.

40. The Appellant Nand Kishor as well as the Applicant Rekha has made misrepresentation and also futile attempt to suppress material facts. The Applicant Rekha 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

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order bearing No. F2(ISR)/RML/83/2023 dated 25.03.2024. 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.

(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 KALI BARI, RML, DELHI

Appeal No: 13/KB/2024

Date of Institution: 30.08.2024

Date of Order: 10.02.2025

Present: Appellant/ Claimant Benhachal S/o Gomti

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 25.07.2024 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-33/58-K, Kali Bari, RML, Delhi. A Public Notice by DDA was pasted in the Kali Bari, RML, Delhi to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Kali Bari, RML, Delhi. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office Kali Bari, RML, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-33/58-K was found to exist but it was found to have been used exclusively for commercial purposes and further he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Kali Bari, duly communicated its order bearing No. F2(ISR)RML/45/2023 dated 25.07.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 13/KB/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 10.01.2025. He has also tendered documents, Annexure-A to Annexure-D, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-33/58-K, Kali Bari, RML, Delhi was found to be used for commercial purposes and further he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 25.07.2024 whereby the reasons for rejection is mentioned to be **"No dwelling unit shall be allotted if the jhuggi is used solely for the Commercial purpose"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether Appellant/Claimant was using the Jhuggi No. C-33/58, Kali Bari , RML, Delhi on the cutoff date of 01.01.2015 exclusively for commercial purposes or it was used exclusively for residential purposes and/or it was put to mixed use for residential-cum-commercial purposes and further whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the

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DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. C-33/58-K, Kali Bari , RML, Delhi as per the policy guidelines issued by DDA.

8. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

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

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

10. As already pointed out above, condition contained in Clause 1 (8) & (9) of Part–B of DDA policy runs as under:

"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will

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

11. Thus the policy guideline issued by DDA stipulates that the commercial use of Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit. In the light of our discussion above, we shall appraise the material placed on file to determines as to whether the Appellant/ Claimant is entitled to claim allotment against the said single storey Jhuggi No. C-33/58, Kali Bari, RML, Delhi as per the policy guidelines issued by DDA.

12. Firstly, we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was using the Jhuggi No. C-33/58, Kali Bari, RML, Delhi, exclusively for commercial purposes or it was put to mixed use for residential-cum-commercial purposes. Secondly, in the later part of this order we shall appraise the material placed on file to determines 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 possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

13. Now we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was using the Jhuggi No. C-33/58, Kali Bari, RML, Delhi, exclusively for commercial purposes or or it was put to mixed use for residential-cum-commercial purposes.

14. The statement of the Appellant/Claimant Benhachal has been recorded before us on 10.01.2025 wherein he has stated that his parents; Gomti Prasad & Devraji, are having three sons; Benhachal, Jatin & Ramachal and four daughters; Kincha, Jantina, Shankara & Muttu. Gomti Prasad had expired about two years ago and Devraji is living in her native village in District Azamgarh, Uttar Pradesh. Jatin had already expired since long back. All the other children are married. Kincha is married with Surender and she is living in her matrimonial home in Dwarka, Delhi. Jantina is married but her husband has expired and currently she is living in in Dwarka, Delhi. Shankara is married but he does not remember the name of her husband and she is living in her matrimonial home in District Azamgarh, Uttar Pradesh, Muttu is married with Ram Dhani and she is living in her matrimonial home in District Azamgarh, Uttar Pradesh. Ramachal is married and he is a rickshaw puller and he is not

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having any home and he sleeps in his rickshaw whereas his entire family is living in Azamgarh, Uttar Pradesh. Benhachal (Appellant/Claimant) is married with Neelam and he is having two children; Sunny & Ayush and both the children are unmarried. His wife Neelam along with her unmarried son Sunny is living in her native village in District Azamgarh, Uttar Pradesh. Whereas the Appellant/Claimant along with another unmarried son Ayush is living in Kali Bari, RML, Delhi.

15. The Appellant/Claimant has stated that the Jhuggi No. C-33/58, Kali Bari, RML, Delhi is a single storey pucca structure having roof made with asbestos sheet and it belongs to one Vinod. Whereas the Appellant/Claimant along with his unmarried son Ayush is living on rent in Jhuggi No. C-33/58, Kali Bari, RML, Delhi for the last three years on payment of monthly rent of Rs. 3,000/- to the landlord/owner Vinod. However, on the advice of some persons he had filed a representation thereby seeking alternative allotment from DDA against the Jhuggi No. C-33/58 of the owner/landlord but his claim was rejected by Eligibility Determination Committee on the ground that it was found to have been used for commercial purposes in spite of the fact that he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 13-KB of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. C-33/58, Kali Bari, RML, Delhi. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 10.01.2025 wherein he has stated that the video clip pertains to the Jhuggi No. C-33/58 in which the Jhuggi is clearly seen to be a single storey structure having area of 6' X 6' and having roof made with asbestos sheet and further the Appellant/Claimant is seen and getting the survey conducted in front of this single storey Jhuggi and further, he is seen holding a slate in his hand on which **"Sr. No. 47 Jh. No. Survey No. 45 BENHACHAL RENT G.F"** is seen to have been written. Furthermore, he is also heard stating that the said Jhuggi belongs to Vinod.

17. However, it is pointed out that number of Jhuggi was not mentioned on the slate and further "Rent" is mentioned and furthermore, the Appellant/Claimant is also heard stating that the said Jhuggi belongs to Vinod. This shows that the Appellant/Claimant has concocted a wrong & false story to grab allotment from DDA by hook or crook.

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18. It is pointed out that the Appellant/Claimant has categorically admitted that the Jhuggi No. C-33/58, Kali Bari, RML, Delhi belongs to one Vinod whereas the Appellant/Claimant is living on rent in the said Jhuggi for the last three years on payment of monthly rent of Rs. 3,000/- to the landlord/owner Vinod. However, the identity of the landlord/owner Vinod is not disclosed and further no rent documents & rent receipts are tendered by the Appellant/Claimant. This creates doubt & suspicion.

19. The statement of the Appellant/Claimant shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living in Jhuggi No. C-33/58, Kali Bari, RML, Delhi. However, the landlord/owner Vinod has not sought allotment from DDA against the said Jhuggi No. C-33/58. But it seems that the the Appellant/Claimant in conspiracy of the the landlord/owner Vinod & other persons had entered into conspiracy to grab allotment from DDA by hook or crook even though the Appellant/Claimant has categorically admitted that on the cutoff date of 01.01.2015 he was not living in Jhuggi No. C-33/58, Kali Bari, RML, Delhi.

20. The statement of the Appellant/Claimant is a clincher piece of evidence and it shows that he is living on rent for the last three years in the Jhuggi No. C-33/58, Kali Bari, RML, Delhi and this Jhuggi belongs to one Vinod. It is also pointed out that the Appellant/Claimant has stated that he along with his unmarried son Ayush is living in the said Jhuggi No. C-33/58 whereas his wife Neelam and another son Sunny is living in his native village in Dist. Azamgarh, Uttar Pradesh. The story put forward by the Appellant/Claimant cannot be believed on the face of it because it is not believable that the Appellant/Claimant would live alone along with one of minor son and will also work for his livelihood because there is none to look after the minor son in his absence.

21. Furthermore, the statement of the Appellant/Claimant is a clincher piece of evidence and it shows that he had come to live on rent in the Jhuggi No. C-33/58, Kali Bari, RML, Delhi about three years ago, thereby, showing that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living in the Jhuggi No. C-33/58, regarding which he is claiming allotment from DDA. Furthermore, in the video clip prepared by the DDA Survey Team, the Appellant/Claimant is seen holding a slate on which it is specifically mentioned that he is living in the said Jhuggi on rent because on the slate it is mentioned **"Sr. No.-47 Jh. No. -- Survey No. 45 BENHACHAL RENT G.F"** and furthermore, the Appellant/Claimant is also heard stating that the said Jhuggi belongs to Vinod.

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22. It is pointed out that the material placed on file shows that the Jhuggi No. C-33/58, Kali Bari, RML, Delhi, has been used exclusively for residential purposes and it belongs to Vinod and the present Appellant/Claimant has come to occupy the said Jhuggi as tenant about three years ago, therefore, on the cutoff date of 01.01.2015 the Appellant/Claimant was not living in Jhuggi No. C-33/58, Kali Bari, RML, Delhi.

23. It is pertinent to point out that the owner/landowner has not claimed allotment from DDA and the Appellant/Claimant has also not sought allotment from DDA under the owner/landlord Vinod but he is claiming allotment from DDA in his individual capacity even though admittedly he had come to live in the said Jhuggi about three years ago and accordingly his admission shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living in the Jhuggi No. C-33/58, Kali Bari, RML, Delhi regarding which he is claiming allotment from DDA. This shows that the Appellant/Claimant has concocted a wrong & false story to grab allotment from DDA by hook or crook.

24. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. C-33/58-K, was in existence in Kali Bari, RML, Delhi on the cutoff date of 01.01.2015 and it was used exclusively for residential purposes and further at that relevant time the landlord/owner Vinod was living there but he has not sought allotment from DDA against the said single storey Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the owner against the said single storey Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi inspite of the fact that he was admittedly not living in the single storey Jhuggi No. C-33/58-K Kali Bari, RML, Delhi on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi about three years ago and that too in the capacity of tenant, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said single storey Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi as per the policy guidelines issued by DDA.

25. Now by taking holistic approach we shall appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled

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to claim allotment against the single storey Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi 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-D, 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 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

28. It is pointed out that the Appellant/Claimant has tendered his Voter ID bearing No. SJE 0178863 and it has been issued on 18.10.2008, much prior to the cutoff date of 01.01.2015. However, no Voter List has been tendered by the Appellant/Claimant to show that his name appeared in any Voter Lists and more specifically in the year 2012 to 2015. Furthermore, the fact cannot be lost sight that the Appellant/Claimant has admittedly stated that he has come to live in the Jhuggi No. C-33/58, Kali Bari, RML, Delhi about three years ago and this shows that by misrepresentation and concealment of facts he has somehow got the Voter ID Card No. SJE 0178863 issued in his favour on 18.10.2008 and this creates doubt & suspicion. The Appellant/Claimant has tendered his Aadhar Card (Annexure-B) and it is bearing No. 3902 5595 2950 but the date of issuance is not mentioned therein.

29. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi but the material placed on file shows that by misrepresentation & concealment of facts he has somehow got the Voter ID Card No. SJE 0178863 issued in his favour on 18.10.2008 because he has admittedly come to live in the Jhuggi No. C-33/58, Kali Bari, RML, Delhi about three years ago and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further as per our discussion above, we have held that the present Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi inspite of the fact that he was admittedly not living in the single storey Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi about three years in the capacity of tenant, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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30. The Appellant/Claimant has tendered Passbook of Bank of Baroda (Annexure-D) in support of his claim

31. It is pointed out that the Passbook of Bank of Baroda (Annexure-D) shows that the Appellant/Claimant has opened the account on 30.03.2012 on the address of the Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi but the material placed on file shows that by misrepresentation & concealment of facts he has somehow got the bank account opened in his favour on 30.03.2012 because he has admittedly come to live in the Jhuggi No. C-33/58, Kali Bari, RML, Delhi about three years ago. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi but the material placed on file shows that by misrepresentation & concealment of facts he has somehow got the Voter ID Card No. SJE 0178863 issued in his favour on 18.10.2008 because he has admittedly come to live in the Jhuggi No. C-33/58, Kali Bari, RML, Delhi about three years ago and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further as per our discussion above, we have held that the present Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi inspite of the fact that he was admittedly not living in the single storey Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi about three years in the capacity of tenant, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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33. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi but the material placed on file shows that by misrepresentation & concealment of facts he has somehow got the Voter ID Card No. SJE 0178863 issued in his favour on 18.10.2008 because he has admittedly come to live in the Jhuggi No. C-33/58, Kali Bari, RML, Delhi about three years ago and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further as per our discussion above, we have held that the present Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi inspite of the fact that he was admittedly not living in the single storey Jhuggi No. C-33/58-K, Kali Bari, RML, Delhi on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi about three years in the capacity of tenant, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-D, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

34. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. F2(ISR)RML/45/2023

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dated 25.07.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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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 SHALIMAR BAGH

Appeal No: 14-S of 2024

Date of Institution: 16.05.2024

Date of Order: 12.02.2025

Present: Appellant/ Claimant Pinki D/o Prahlad

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 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. T-257, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. The Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion

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that the Appellant/ Claimant was found to have not been using the said Jhuggi No. T-257, Shalimar Bagh as "dwelling unit" but it was found to have been used as "Bathroom" and further she had failed to submit requisite documents as per the policy guidelines for alternate allotment and accordingly the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and consequently the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing "Survey Number 190/1210" dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 14-S of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 31.01.2025. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant/ Claimant's Jhuggi bearing No. T-257, Shalimar Bagh was found to have not been used as "dwelling unit" but it was found to have been used as "Bathroom" and further she had failed to submit requisite documents as per the policy guidelines for alternate allotment 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 13.03.2024 whereby the reasons for rejection is mentioned to be **"Instead of dwelling unit the Jhuggi is used as bathroom"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine

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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 the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether the Appellant/ Claimant's Jhuggi bearing No. T-257, Shalimar Bagh was rightly found to have not been used as "dwelling unit" but it was used as "Bathroom" and further whether she is entitled to claim allotment against the Jhuggi No. T-257 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Pinki has been recorded before us on 31.01.2025 wherein she has stated that her parents; Prahlad & Sushila, are having one son; Akash and four daughters; Asha, Sapna, Chandni & Pinki. All the children except Akash & Chandni are married. Asha is married with Ram Avtar and Sapna is married with Rakesh and both of them are living in their respective matrimonial homes in Sawai Madhopur, Rajasthan. Pinki (Appellant/Claimant) is married with Sunil in the year 2017 and having one son Divyansh.

9. The Appellant/Claimant has stated that her parental family is having two Jhuggis in Shalimar Bagh and both the Jhuggis are single storey structures and situated at some distance away from each other but both the Jhuggis are bearing the name number i.e. T-257.

10. The factum of two Jhuggis having same number creates doubt & suspicion because it gives an opportunity to unscrupulous elements to use documents prepared on the address of one Jhuggi in normal course to claim allotment from DDA against another Jhuggi, which has been given the same number with an intention to defraud & cheat DDA to maximise allotments by hook or crook.

Jhuggi No. T-257 of her parents

11. The Appellant/Claimant has stated that her parents; Prahlad & Sushila, along with their unmarried children; Akash & Chandni, are living in the Jhuggi No. T-257, Shalimar Bagh, which is a single storey structure and regarding that, DDA has made allotment in favour of her father Prahlad. These facts are not disputed by DDA.

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Jhuggi No. T-257 of the Appellant/Claimant

12. The Appellant/Claimant has stated that she along with her husband Sunil & son Divyansh is living in the Jhuggi No. T-257, Shalimar Bagh, which is also a single storey structure. The Appellant/Claimant has stated that she has sought allotment from DDA against the said single storey Jhuggi No. T-257, Shalimar Bagh but her claim was rejected by Eligibility Determination Committee on the ground that her Jhuggi was found to have been used as a bath room in spite of the fact that she has using her Jhuggi for residential purpose and further, she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 14-S of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. It is pointed out that no videography was conducted by the survey team of DDA in Shalimar Bagh. Accordingly, no video clip of the Jhuggi of the Appellant/Claimant is available.

14. It is pointed out that the Appellant/Claimant has specifically stated that her date of birth is 04.01.1998 and it has been correctly recorded in her Voter ID Card (Annexure-A) & Birth Certificate (Annexure-C). Furthermore, the Appellant/Claimant has also specifically stated that she was married with Sunil in the year 2017 and accordingly, on the cutoff date of 01.01.2015 she was unmarried. Further, the Appellant/Claimant has not stated even a single word that she was having independent income before she got married with Sunil in the year 2017. This shows that on the cutoff date of 01.01.2015, the Appellant/Claimant was a minor & unmarried and further she was not having any independent source of income. It is a matter of common observance that no parents will allow their unmarried minor daughter to live separately, especially when she is not having any independent source of income. The material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was living jointly with her parents. Further, as already pointed out above, the Appellant/Claimant has stated that her parental family is having two Jhuggis in Shalimar Bagh and both the Jhuggis are are bearing the name number i.e. Jhuggi No. T-257. The factum of two Jhuggis having same number creates doubt & suspicion because it gives an opportunity to unscrupulous elements to use documents prepared on the address of

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one Jhuggi in normal course to claim allotment from DDA against another Jhuggi, which has been given the same number with an intention to defraud & cheat DDA to maximise allotments by hook or crook.

15. Accordingly, we have no hesitation in holding that on the cutoff date of 01.01.2015, the Appellant/Claimant was a minor & unmarried and further she was not having any independent source of income and was living jointly with her parents but the Appellant/Claimant in conspiracy with her family members has concocted a wrong & false story that she was living separately from her parents in order to grab alternative allotment from DDA by hook or crook and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. Hence, now whether the Appellant/ Claimant fulfills eligibility criteria on other parameters needs to be determined. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said Jhuggi No. T-257, Shalimar Bagh 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-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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

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

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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."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

30. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued

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

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

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

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

41. It is pointed out that we have already held that on the cutoff date of 01.01.2015, the Appellant/Claimant was a minor & unmarried and further she was not having any independent source of income and was living jointly with her parents but the Appellant/Claimant in conspiracy with her family members has concocted a wrong & false story that she was living separately from her parents in order to grab alternative allotment from DDA by hook or crook and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. But despite that the Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. T - 257, Shalimar Bagh. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. It is pointed out that the Appellant/Claimant has specifically stated that her date of birth is 04.01.1998 and it has been correctly recorded in her Voter ID Card (Annexure-A) & Birth Certificate (Annexure-C). Furthermore, the Appellant/Claimant has also specifically stated that she was married with Sunil in the year 2017. Further, the Appellant/Claimant has not said even a single word that she was having independently income before she got married with Sunil in the year 2017. This shows that on the cutoff date of 01.01.2015, the Appellant/Claimant was a minor and unmarried and she was not having any independent source of income. Therefore, no parent will allow her unmarried minor daughter to live

separately, especially when she is not having any independent source of income. This shows that the Appellant/Claimant has come forward and concocted a wrong & false story to grab alternative allotment from DDA that she was living separately from her parents and further, both the Jhuggis were bearing the same number.

43. The Appellant/Claimant has tendered her Voter ID Card No. ZFK 1950104 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

44. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number ZFK 1950104 (Annexure-A) and it has been issued on 08.04.2017, much after the cutoff date of 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the years from 2012 to 2015 does not arise. Further, her Aadhar Card is bearing No. 7311 3778 6437 (Annexure-B) and it has been issued on 14.12.2011. It is pointed out that the Appellant/Claimant has specifically stated that her date of birth is 04.01.1998 and it has been correctly recorded in her Voter ID Card (Annexure-A) & Birth Certificate (Annexure-C) and accordingly, the Appellant/Claimant was minor on the cutoff date 01.01.2015. Therefore, the question of her getting Voter ID Card issued in her favour on the cutoff date 01.01.2015 does not arise. Furthermore, all these documents have been issued on the address of her parents and accordingly, these documents are not relevant to determine the eligibility of the Appellant/Claimant.

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. T-257, Shalimar Bagh regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further as per our discussion above, this Appellate Authority has held that on the cutoff date of 01.01.2015, the Appellant/Claimant was a minor & unmarried and further she was not having any independent source of income and was living jointly with her parents but the Appellant/Claimant in conspiracy with her family members has concocted a wrong & false story that she was living separately from her parents in order to grab alternative allotment from DDA by hook or crook and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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46. The Appellant/Claimant has also tendered the Voter ID Card (Annexure-D) & Aadhar Card (Annexure-E) of her husband Sunil Kumar as well as the Electricity Bill (Annexure-F) in support of her claim.

47. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. IMA 0768929 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Sunil have been issued on the address of Jaipur, Rajasthan and accordingly these documents are not relevant as they have not been issued on the address of the Jhuggi No. T-257, Shalimar Bagh, regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, the Electricity Bill (Annexure-F) shows that her mother Sushila had taken the electricity connection on 01.08.2011 and furthermore, this Electricity Bill pertains to the electricity connection taken on the Jhuggi No. T-257 of her mother and regarding that DDA has already made alternative allotment in favour of her father Prahlad and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant as it has not been issued on the address her Jhuggi, even though it is bearing the same Jhuggi No. but is alleged to be a separate dwelling unit.

48. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number ZFK 1950104 (Annexure-A) and it has been issued on 08.04.2017, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter Lists of the years from 2012 to 2015 does not arise. Further, her Aadhar Card is bearing No. 7311 3778 6437 (Annexure-B) and it has been issued on 14.12.2011, much after the cutoff date of 01.01.2015. However, all these documents have been issued on the address of her parents and accordingly, these documents are not relevant to determine the eligibility of the Appellant/Claimant. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. T-257 Shalimar Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further as per our discussion above, this Appellate Authority has held that on the cutoff date of 01.01.2015, the Appellant/Claimant was a minor & unmarried

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and further she was not having any independent source of income and was living jointly with her parents but the Appellant/Claimant in conspiracy with her family members has concocted a wrong & false story that she was living separately from her parents in order to grab alternative allotment from DDA by hook or crook and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

50. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. T-257 Shalimar Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further as per our discussion above, this Appellate Authority has held that on the cutoff date of 01.01.2015, the Appellant/Claimant was a minor & unmarried and further she was not having any independent source of income and was living jointly with her parents but the Appellant/Claimant in conspiracy with her family members has concocted a wrong & false story that she was living separately from her parents in order to grab alternative allotment from DDA by hook or crook and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of

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

51. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity or illegality in the impugned order bearing "Survey Number 190/1210" dated 13.03.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF SHALIMAR BAGH

Appeal No: 15-S of 2024

Date of Institution: 16.05.2024

Date of Order: 12.02.2025

Present: Appellant/ Claimant Bhagola S/o Herwa

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 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. 54/195, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. 54/195 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, Shalimar Bagh, duly communicated its order bearing "Survey Number

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1199/4258 dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 15-S of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 31.01.2025. 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. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records the Jhuggi bearing No. 54/195 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 13.03.2024 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. 54/195 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Bhagola has been recorded before us on 31.01.2025 wherein he has stated that he is married with Pachiya and having one son Nathu and two daughters Kani & Kattu. All the children are married. Kani and Kattu are married and

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both the daughters are living in their respective matrimonial home in Madhya Pradesh. Nathu is married with Sanju and having four children and they are living in Madhya Pradesh.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi No. 54/195 in Shalimar Bagh, Delhi and it comprises of one room having roof made with asbestos sheet.

10. The Appellant/Claimant has stated that he along with his wife Pachiya is living in the said single storey Jhuggi No. 54/195. The Appellant/Claimant has stated that he has sought allotment from DDA against the said single storey Jhuggi No. 54/195 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified in spite of the fact that he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 15-S/2024 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. No survey/videography was conducted by the survey team of DDA in Shalimar Bagh, and accordingly no video clip is available.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records, about the existence of the single storey Jhuggi No. 54/195, Shalimar Bagh. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the single storey Jhuggi No. 54/195, was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. 54/195, was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant

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was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. 54/195, Shalimar Bagh as per the policy guidelines issued by DDA.

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

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

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

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

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

18. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

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

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

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

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

39. It is pointed out that we have already held that the single storey Jhuggi No. 54/195 was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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

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01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. 54/195, Shalimar Bagh as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E), the Letter No. VC/AERO/AC-14/Misc./2024/711 dated 28.09.2024 (Annexure-H) of AERO, AC-14, Shalimar Bagh, Voter List of the year 2021 (Annexure-I), Voter List of the year 2023 (Annexure-J), Voter List of the year 2024 (Annexure-K & Annexure-L) in support of his claim.

42. It is pointed out that the Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C). No explanation has been given by the Appellant/Claimant for having three Voter ID Cards and this creates doubt and suspicion.

43. It is pointed out that Voter ID Card No. ZFK 1104189 (Annexure-A) of the Appellant/Claimant has been issued on 12.09.2011, much prior to the cutoff date 01.01.2015. However, the Letter No. VC/AERO/AC-14/Misc./2024/711 dated 28.09.2024 (Annexure-H) of AERO, AC-14, Shalimar Bagh shows that the Voter ID Card No. ZFK 1104189 (Annexure-A) of the Appellant/Claimant is not a valid document as per the records of the Election Commission. This shows that Voter ID Card No. ZFK 1104189 (Annexure-A) of the Appellant/Claimant has tried to use forged and fabricated document to grab allotment from DDA by hook or crook.

44. It is pointed out that the second Voter ID Card No. ZFK2344232 (Annexure-B) of the Appellant/Claimant has been issued on 11.03.2021, much after the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of the years from 2012 to 2015 does not arise. The Aadhar Card No. 4098 6627 8501 (Annexure-D) of the Appellant/Claimant has been issued on 09.01.2013. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1520 in the Voter List of the year 2021 (Annexure-I), at Sl. No. 761 in the Voter List of the year 2023 (Annexure-J) and at Sl. No. 785 in the Voter List of the year 2024 (Annexure-K). As per the remarks given at Sl. No. 485 in the Voter List of the year 2024 (Annexure-L), which was approved on 06.05.2024, shows that on the basis of the Voter ID Card No. ZFK 2344232 (Annexure-B) the name of the Appellant/Claimant appears in the Voter List of the year 2021 & 2023 (Annexure-I & Annexure-J) but subsequently his name has been deleted.

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45. Furthermore, the Appellant/Claimant had got the third Voter ID Card No. ZFK 2467306 (Annexure-C) issued in his favour on 01.04.2024, much after the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of the years from 2012 to 2015 does not arise. Furthermore, the Appellant/Claimant has failed to explain the reasons for having got the third Voter ID Card No. ZFK2467306 (Annexure-C) issued in his favour on 01.04.2024 when he was already having a valid Voter ID Card No. ZFK2344232 (Annexure-B) and especially when this Voter ID Card No. ZFK2344232 (Annexure-B) was used by him to cast vote as reflected in the Voter List of the years 2021 & 2023 (Annexure-I & Annexure-J) but the fact remains that on the cutoff date 01.01.2015 the Appellant/Claimant was not having a valid Voter ID Card issued on the address of Jhuggi No. 54/195 regarding which he has been claiming allotment from DDA. The material placed on file shows that neither the Appellant/Claimant nor his wife Pachiya was having a valid Voter ID Card on the cutoff date 01.01.2015 and further, their names also do not appear in the Voter List of the year from 2012 to 2015.

46. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. 54/195 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The Appellant/Claimant has tendered the Electricity Bill (Annexure-F) and the Passbook of Union Bank of India (Annexure-G) in support of his claim.

48. It is pointed out that the Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken the electricity connection on 24.09.2019, much after the cutoff date 01.01.2015. The Passbook of Union Bank of India (Annexure-G) shows that the Appellant/Claimant had opened the account on 20.03.2020, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 54/195, Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to

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01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

50. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 54/195, Shalimar Bagh, regarding which he is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-L, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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51. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing "Survey Number 1199/4258 dated 13.03.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF SHALIMAR BAGH

Appeal No: 05-S of 2024

Date of Institution: 16.05.2024

Date of Order: 13.02.2025

Present: Appellant/ Claimant Dharam Pal S/o Kallu Pal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. N-54/132, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. N-54/132 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing "Survey Number

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27/1202" dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 05-S of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 09.01.2025. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records the Jhuggi bearing No. N-54/132 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 13.03.2024 whereby the reasons for rejection is mentioned to be **"Voter ID Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. N-54/132 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Dharam Pal has been recorded before us on 09.01.2025 wherein he has stated that his parents, Kallu Pal & Sonwati, are having two sons,

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Jai Prakash & Dharam Pal (Appellant/ Claimant Dharam) and four daughters Dharanmvati, Ganga, Amlesh & Rajrani. All the children are married except Dharampal. Both the parents, Kallu Pal & Sonwati, have expired about thirty years ago. Dharanmvati is married with Attar Singh and she is living in her matrimonial home in Shahdra, Delhi. Ganga is married with Kanti Pal and she is living in her matrimonial home in Hapur, Uttar Pradesh. Amlesh is married with Naresh and she is living in her matrimonial home Sarup Nagar, Delhi and subsequently expired about seven years ago. Rajrani is married with Devender and she is living in her matrimonial home in Nodia, Uttar Pradesh. Jai Prakash is married with Kusum and having four children and they are living in Ghaziabad, Uttar Pradesh.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi No. N-54/132, Shalimar Bagh, Delhi and in the said Jhuggi No. N-54/132 he is living all alone. The Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. N-54/132 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified in spite of the fact that he is having all the requisite document as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 05-S/2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, in support of his Claim and prayed that DDA be directed to make allotment in his favour.

10. There is no videography/survey was conducted by DDA and accordingly survey record/videography is not available.

11. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records, about the existence of the single storey Jhuggi No. N-54/132, Shalimar Bagh. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the single storey Jhuggi No N-54/132was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

12. Accordingly, we have no hesitation in holding that the single storey Jhuggi No N-54/132, was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

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13. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. N-54/132, Shalimar Bagh 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-D, 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

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Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of 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. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

33. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate

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

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

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

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

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

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

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

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

38. It is pointed out that we have already held that the single storey Jhuggi No N-54/132 was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

39. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. N-54/132 Shalimar Bagh as per the policy guidelines issued by DDA.

40. The Appellant/Claimant has stated that her Voter ID Card No. URO 0147769 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

41. It is pointed out that the Voter ID Card No. URO 0147769 (Annexure-A) of the Appellant/Claimant has been issued on 24.04.2024, much after the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of the years from 2012 to 2015 does not arise. The Appellant/Claimant has tendered his Aadhar Card No. 5456 3697 6743 (Annexure-B) and it has been issued on 15.08.2013.

42. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-54/132

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regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

43. The Appellant/Claimant has also tendered Ration Card No. 223763 (Annexure-D) in support of his claim.

44. It is pointed out that the Appellant/Claimant has also tendered Ration Card No. 223763 (Annexure-D) and it has been issued in his favour on 11.11.1999. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because this document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-54/132 Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

46. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-54/132 Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not

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appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-D, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

47. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing "Survey Number 27/1202" dated 13.03.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any me

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF SHALIMAR BAGH

Appeal No: 01-S of 2024

Date of Institution: 16.05.2024

Date of Order: 13.02.2025

Present: Appellant/ Claimant Pooja W/o Sumit

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 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. 157, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. 157 was found to exist but it was found to be a case of double allotment against the same Jhuggi and further she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the

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claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing "Survey Number 125/1205" dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 01-S of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 23.09.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant/ Claimant's Jhuggi bearing No. 157, Shalimar Bagh was found to exist but it was found to be a case of double allotment against the same Jhuggi and further she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 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.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether it was a case of double allotment against the same Jhuggi and further whether she is entitled to claim allotment against the Jhuggi No. 157 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Pooja has been recorded before us on 23.09.2024, wherein she has stated that she is married with Sumit and having two sons Akhil & Aarav.

9. The Appellant/Claimant has stated that her family is having two double storey Jhuggis in Shalimar Bagh, Delhi. One Jhuggi is bearing Jhuggi No. 157 and other is bearing Jhuggi No. T-62 and both tar double storey Jhuggis and are situated back to back to each other.

Jhuggi No. T-62

10. The Appellant/Claimant has stated that her parents, Dinesh & Malti, are livng in the double storey Jhuggi No. T-62, Shalimar Bagh and further DDA has made allotment in favour of her father Dinesh against the said Jhuggi No. T-62. These facts are not disputed by DDA.

Jhuggi No. 157

11. The Appellant/Claimant has stated that she along with her family is living in the double storey Jhuggi No. 157, Shalimar Bagh, Delhi and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali (street) and it is used for going to the upper floor. The Appellant/Claimant has stated that she has claimed allotment against the double storey Jhuggi No. 157 but her claim has been rejected by the Eligibility Determination Committee on the ground of double allotment in spite of the fact that her Jhuggi No. 157 and Jhuggi No. T-62 of her parents, Dinesh & Malti, are two separate dwelling units and they are situated back to back to each other and DDA has made allotment in favour of her father Dinesh against Jhuggi No. T-62 and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 01-S/2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-N, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. We have to understand what is the concept of "Double allotment against the same Jhuggi" under the policy guidelines issued by DDA. The DDA policy is based on the principle of "One dwelling unit - One allotment". There may be one claim or several claims for seeking allotment against one dwelling unit. It is not disputed that "Consideration for Allotment" and "Actual Allotment" are two different things. Similarly, "Double Claim or Double Applicants against the same Jhuggi" and "Double allotment against the same Jhuggi" are

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two different things. The EDC has to consider the claims of the respective applicants as per the eligibility criteria laid down in the policy guidelines issued by DDA and then to determine whether he is entitled for allotment. When EDC finally decides to make allotment in favour of one of the applicants then it can reject the claims of the remaining applicants on the grounds of double allotment because the DDA policy debars double allotment against the same Jhuggi. Thus the allotment in favour of one of the dwellers precludes allotment to other applicants against that very Jhuggi on the ground of double allotment. But when EDC had only considered the claim of one of the claimants without making allotment in his favour then the mere fact of having considered his claim does not preclude allotment to other applicants against that very Jhuggi on the ground of double allotment. When there is more than one claim against the same Jhuggi but no allotment is actually made by DDA then it falls under the category of "Double Claim or Double Applicants against the same Jhuggi" but it does not fall under the category of "Double allotment against the same Jhuggi" for the second claimant till DDA had made allotment to the first claimant. Thus allotment in favour of one claimant is a pre-requisite for rejecting the claim of another claimant on the ground of "Double allotment against the same Jhuggi". Any other interpretation would result into injustice because it may even result in not making even one allotment against a particular Jhuggi because the claim of the first claimant is only considered without allowing his claim on merits whereas the claim of the second claimant is rejected on technical grounds of double allotment without considering his claim on merit and also ignoring the material facts that DDA had not made allotment in favour of the first claimant. Merely considering the claim of the first claimant without making allotment in his favour does not justifies the rejection of the second claimant on technical grounds of "Double allotment against the same Jhuggi".

13. Accordingly, practically there may be more than one claims against one specific Jhuggi but mandatorily there has to be only one allotment against that very Jhuggi because second or double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA. The "Double allotment against the same Jhuggi" connotes the situation when DDA has already made allotment in favour of one of the eligible applicants and accordingly the subsequent claim(s) by some other person(s)/claimant(s) against that very Jhuggi are debarred on the grounds of double allotment. Accordingly, there being more than one claims against the same Jhuggi ipso facto does not give rights to EDC to reject the

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other claims under "Double allotment against the same Jhuggi" until DDA had already decided to make allotment in favour of one of the applicants. Thus if there are two claims against one Jhuggi and DDA has not made allotment in favour of the first claimant then the claim of the second claimant cannot be rejected on the ground of double allotment simply because the Jhuggi was surveyed twice or the claim of the first claimant had already been considered but the EDC is duty bound to decide the eligibility of the other claimant on merits thereby taking into consideration as to whether DDA has made allotment in favour of one of the earlier applicant against that very Jhuggi or not. The result would have been different if on consideration of the eligibility, EDC had decided to make allotment in favour of the first claimant then the claim of the second claimant can be certainly rejected on the grounds of double allotment. But when no allotment is made by DDA in favour of the first claimant even after due consideration of his claim then the claim of second claimant cannot be rejected on the ground of "Double Allotment against the same Jhuggi" because in that eventuality the question of double allotment against the same Jhuggi does not arise since no allotment has been made against that Jhuggi and it falls under the category of "Double Claim or Double Applicants against the same Jhuggi" and not under the category of "Double allotment against the same Jhuggi". In view of the matter the terms "Consideration for Allotment" and "Allotment" are not synonymous but two different terms and they are part of the same process. The EDC has to determine the eligibility of the dwellers as per the criteria fixed by the policy guidelines issued by DDA. The claims of all the applicants are required to be considered for allotment and the process is culminated in making allotment or declining to make allotment. When after consideration of the claim EDC decides to make allotment in favour of one of the applicants then the claim(s) of the remaining applicant(s) deserves to be rejected on the ground of double allotment because double allotment is not permissible against the same Jhuggi as per the policy guidelines issued by DDA. However, after consideration of the claim of one of the applicant the EDC decides not to make allotment in his favour then in that eventuality the claim of the other applicants cannot be rejected on the grounds of double allotment because there is in fact no allotment made by DDA in favour of the earlier claimant as his claim was only considered but it had not culminated in making allotment in his favour. In view of the matter the claim of the other applicant/claimant deserves to be decided on their individual merits as per the policy guidelines issued by DDA and his claim cannot be rejected on the ground of "Double

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allotment against the same Jhuggi".

14. In the light of our discussion above, we shall appraise the material placed on file to determine whether it is a case of "Double allotment against the same Jhuggi" or only falls under the category of "Double Claim or Double Applicants against the same Jhuggi".

15. It is pointed out that DDA has not conducted survey/videography in Shalimar Bagh, Delhi. But the Appellant/Claimant has tendered Pen Drive (Annexure-L) thereby containing the video clips of her Jhuggi bearing Jhuggi No. 157 & Jhuggi No. T-62 of her parents Dinesh & Malti and the video clip contained in the Pen Drive (Annexure-L) is saved in the computer where the video clips prepared by the survey team are saved and furthermore, the video clips were played before the Appellant/Claimant when her statement was recorded before us on 23.09.2024. The Appellant/Claimant has stated that in the video clips both the Jhuggi No. 157 & Jhuggi No. T-62 are clearly seen to double storey structure and constitutes separate & distinct dwellings and they are clearly seen to be abutting back to back to each other.

16. It is pointed out that on the direction of this Appellate Authority dated 05.09.2024, the Administrative Department has conducted the resurvey of both Jhuggi No. 157 & Jhuggi No. T-62 and the resurvey team had submitted the Status Report dated 19.09.2024 (Annexure-M) annexed with the video clip and furthermore, the video clip is saved in the computer where other video clips prepared by the survey team are saved. The Status Report dated 19.09.2024 (Annexure-M) clearly corroborates the statement of the Appellant/Claimant about the existence of two separate and distinct Jhuggis, which have been found to be double storey structures and lying abutting back to back to each other and furthermore, in Jhuggi No. 157, the Appellant/Claimant was found to be living whereas in Jhuggi No. T-62 her parents, Dinesh & Malti, were found to be living.

17. The video clip annexed with the Status Report dated 19.09.2024 (Annexure-M) was also played before the Appellant/Claimant when her statement was recorded before us on 23.09.2024 wherein she has stated that both the Jhuggi No. 157 & Jhuggi No. T-62 are clearly seen to be a separate & distinct dwelling double storey Jhuggi and they are clearly seen to be situated abutting back to back to each other.

18. The statement of the Appellant/Claimant as well as the Status Report dated 19.09.2024 (Annexure-M) as well as the Pen Drive (Annexure-L) and the video clip annexed with the Status Report dated 19.09.2024 (Annexure-M) clearly shows that the Appellant/Claimant is having a double storey Jhuggi No. 157 and further her Jhuggi bearing Jhuggi No. 157 and Jhuggi No. T-62 of her parents, Dinesh & Malti, are two separate dwelling units and both the Jhuggis are situated abutting back to back each other. Furthermore, the material placed on file shows that DDA has already made allotment in favour of her father Dinesh against Jhuggi No. T-62 and accordingly this has nothing to do with the claim of the Appellant/Claimant against Jhuggi No. 157. Therefore, her claim has been wrongly rejected by the Eligibility Determination Committee on the ground of double allotment.

19. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/status report/video clips, about the existence of the double storey Jhuggi No. 157, Shalimar Bagh. Thus the statement of the Appellant/Claimant as well as the survey records/status report/video clips has duly proved that the double storey Jhuggi No. 157 was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is living in the said double storey Jhuggi No. 157, Shalimar Bagh and the same has been used by him for residential purposes.

20. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. 157 was in existence in the Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living in the said double storey Jhuggi No. Shalimar Bagh and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

21. Hence, now whether the Appellant/ Claimant fulfills eligibility criteria on other parameters needs to be determined. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before

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01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said double storey Jhuggi No. 157, Shalimar Bagh 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-N, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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.

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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."

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

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GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

31. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

34. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and

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

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

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

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

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

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

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SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

46. It is pointed out that we have already held that the double storey Jhuggi No. 157 was in existence in the Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA

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

47. The Appellant/Claimant has tendered her Voter ID Card No. ZFK 2044089 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2022 (Annexure-K) in support of her claim.

48. It is pointed out that the Voter ID Card No. ZFK 2044089 (Annexure-A) of the Appellant/Claimant has been issued on 24.04.2019, much after the cutoff date 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the years from 2012 to 2015 does not arise. The Appellant/Claimant has tendered her Aadhar Card (Annexure-B), which has been issued on 06.12.2011.

49. It is pointed out that the Appellant/Claimant has stated that her Date of Birth is 05.03.1998 and it has been correctly recorded in 10th Mark sheet (Annexure-J) but in her Voter ID Card No. ZFK 2044089 (Annexure-A), her date of birth has been wrongly recorded to be 06.03.1998 and in Aadhar Card (Annexure-B) as well as in PAN Card (Annexure-N) it has been wrongly recorded to be 01.01.1998 instead of 05.03.1998. The fact remains that the Appellant/Claimant has specifically stated that her date of birth is 05.03.1998 and it has been correctly recorded in 10th Mark Sheet (Annexure-J) and accordingly, the Appellant/Claimant was minor on the cutoff date 01.01.2015. Therefore, the question of her getting Voter ID Card issued in her favour on the cutoff date 01.01.2015 does not arise. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 465 in the Voter List of the year 2022 (Annexure-K) but this document is not relevant as it relates to the post cutoff date 01.01.2015.

50. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. 157, Shalimar Bagh regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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51. The Appellant/Claimant has tendered Voter ID Card No. ZFK 2042828 (Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E) & Driving License (Annexure-F) of her husband Sumit, Aadhar Card (Annexure-G) of her son Akhil, Birth Certificate (Annexure-H) of her son Aarav and the Passbook of Punjab & Sind Bank (Annexure-I) in support of her claim.

52. It is pointed out that the Voter ID Card No. ZFK 2042828 (Annexure-C) of her husband Sumit has been issued on 24.04.2019, much prior to the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of the years from 2012 to 2015 does not arise. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) of her husband Sumit but the date of issuance is not mentioned in this document. The Driving License (Annexure-F) of her husband Sumit has been issued on 12.01.2016, much after the cutoff date 01.01.2015. The material placed on file shows that neither the Appellant/Claimant nor her husband Sumit was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of Jhuggi No. 157 regarding which the Appellant/Claimant has been claiming allotment from DDA and further their names also do not appear in the Voter List of the years from 2012 to 2015. The Aadhar Card (Annexure-G) of her son Akhil has been issued on 06.03.2021, much after the cutoff date 01.01.2015. The Birth Certificate (Annexure-H) of her son Aarav has been issued on 16.12.2022, much after the cutoff date 01.01.2015. The Passbook of Punjab & Sind Bank (Annexure-I) shows that the Appellant/Claimant had opened the account but the date of opening of account is not mentioned in this document. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 157 Shalimar Bagh, regarding which she is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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

54. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 157 Shalimar Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-N, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

55. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity or illegality in the impugned order bearing "Survey Number 125/1205" dated 13.03.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF SHALIMAR BAGH

Appeal No: 04-S/2024

Date of Institution: 16.05.2024

Date of Order: 14.02.2025

Present: Appellant/ Claimant Abhishek S/o Vinod Kumar

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 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. T-54/26, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. The Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion

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that the Appellant/ Claimant was found to have been using the said Jhuggi No. T-54/26, Shalimar Bagh for religious purposes as "Temple" and accordingly the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and consequently the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing "Survey Number 32/1206" dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 04-S of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 23.08.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant/ Claimant's Jhuggi bearing No. T-54/26, Shalimar Bagh was found to have been used for religious purposes as "Temple" and accordingly he was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 13.03.2024 whereby the reasons for rejection is mentioned to be **"Temple"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/ Claimant Ram. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. T-54/26, Shalimar Bagh was rightly found to have been exclusively used for religious purposes as "Temple" on the cutoff date of 01.01.2015 and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

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8. Therefore, it has to be first seen as to what is the legal position with regard to the Jhuggi, which was found to be Religious Structure exclusively used for religious purposes, under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

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

9. The JJ Rehabilitation and Relocation Policy, 2015 (PART-B) delineates eligibility criteria for the allotment of alternative dwelling units to rehabilitate and relocate Jhuggi Jhopri dwellers. To qualify for the same, the Jhuggi Jhopri dwellers must be Indian citizens aged 18 or above, residing in a basti established before 01.01.2006, with a cutoff date for residency eligibility of 01.012015. It is further stipulated that their names must appear in voter lists from 2012 to 2015 and in a joint survey conducted by by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India.

10. It is mandated that there is verification in terms of biometric authentication via Aadhar Card or other mechanisms, along with possession of one of 12 specified documents issued before 01.01.2015. The specified documents for eligibility encompass passports, ration cards with photographs, electricity bills, driving licenses, identity cards issued by government bodies, passbooks from public sector banks or post offices, and various

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certificates such as SC/ST/OBC, pension, freedom fighter, physically handicapped, and health insurance scheme cards. Identity cards issued by government schools or certificates attested by school principals for descendants of JJ dwellers are also acceptable.

11. It is further stipulated that the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit. Ineligible JJ dwellers face eviction during rehabilitation, relocation, or basti clearance.

12. It is pointed out that the bare perusal of the Policy shows that it provides the scheme to rehabilitate and relocate Jhuggi Jhopri dwellers and accordingly the prime most condition is that the applicant must be living in the Jhuggi regarding which he is claiming allotment from DDA and in other words the Jhuggi should be used for residential purposes. In addition to that the cases in which the Jhuggi is used for both residential & commercial purposes to earn his livelihood, the applicant is entitled to claim alternative allotment as the use of the Jhuggi for mixed use for residential-cum-commercial purposes is permitted under the policy. But alternative allotment cannot be made under the DDA policy when the Jhuggi is exclusively used for commercial purposes or for Religious Purposes. The Religious Structure falls under separate category because such structures are predominantly used for religious purposes unconnected with residential or commercial activities. Furthermore, the Religious Structure does not fall under the category of residential or commercial purposes. Under the policy of DDA the dwellers are entitled to claim alternative allotment only when the Jhuggi is used (i) for residential purposes or (ii) for both residential & commercial purposes. Therefore, use of the Jhuggi as Religious Structure does not fall under the category of residential purposes or mixed use for residential-cum-commercial purposes. It is pertinent to point out that the nature of the Jhuggi is determined by the dominant purposes for which it is used. The residential dwelling unit, which is having a personal temple/worship area, will retain its nature to be residential because of the reason that it is predominantly used as residential and further the personal temple/worship area is not open to general public to offer worship. But in case of Jhuggi used as Religious Structure its predominant use is religious, which is open to general public for worship, and the facts that the Pujari/Priest also resides in such Religious Structure will not change its nature to

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residential because it happens to be predominantly used as Religious Structure and further it is open to general public for worship. Therefore, no allotment against the Religious Structure can be made under the policy guidelines issued by DDA.

13. In the light of our discussion above, we shall now appraise the material placed on file by to determine as to whether the Appellant/ Claimant was using the Jhuggi No. T-54/26, Shalimar Bagh exclusively as Religious Structure or for residential purposes or for mixed residential-cum-commercial purposes and 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 possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the said Jhuggi No T-54/26, Shalimar Bagh as per the policy guidelines issued by DDA.

14. First of all, we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was using the Jhuggi No. T-54/26, Shalimar Bagh exclusively as Religious Structure or for residential purposes or for mixed residential-cum-commercial purposes because as already pointed out above, the use of Jhuggi as Religious Structure precludes dwelling unit allocation as per the policy guideline issued by DDA.

15. The statement of the Appellant/Claimant Abhishek has been recorded before us on 23.08.2024 wherein he has stated that his parents; Vinod Kumar & Chanda Devi, are having two sons; Abhishek & Akash. Akash is unmarried whereas Abhishek (Appellant/Claimant) is married with Meera and having one son Aarav. But the Appellant/Claimant is not keeping a cordial relation with his parents and accordingly he is living separately.

16. The Appellant/Claimant has stated that his parents; Vinod Kumar & Chanda Devi, along with their unmarried son Akash is living in the double storey Jhuggi No. T-54/26, Shalimar Bagh and regarding that DDA has made allotment in favour of his father Vinod Kumar.

17. The Appellant/Claimant has stated that he is not having cordial relations with his parents and accordingly, he along with his wife Meena and the son Aarav is living in the Jhuggi of one Suman W/o Dharmraj. They are having one adopted daughter Naina but her husband had died. Dharamraj had also died about 10 years ago. The Jhuggi of the said Suman is a

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single storey structure and having two rooms. In one of the rooms, Suman is living with her family whereas the Appellant/Claimant along with his family is living in the second room but he is not paying any rent to her. However, the Appellant/Claimant has stated that he does not know the number of the Jhuggi of the said Suman. This shows that the Appellant/Claimant is making a vague and evasive statement in order to conceal material facts with a dishonest intention to grab allotment from DDA by hook or crook.

18. The Appellant/Claimant has stated that the inhabitants of Shalimar Bagh had constructed a single storey temple in Shalimar Bagh with public donation. The Appellant/Claimant has stated that he is working as caretaker to look after and clean the temple, which is open to general public. It is a single storey structure having roof made with asbestos sheet and the temple is given the same Jhuggi number i.e. T-54/26 to that of his parents. The said temple is at a distance of 100 meters from the Jhuggi of his parents and about 50 meters from the Jhuggi of the Suman. However, it is very surprising that the temple and the Jhuggi of his parents are bearing same Jhuggi number, namely, Jhuggi No. T-54/26. Further, two Jhuggis having the same number creates doubt & suspicion because it gives an opportunity to unscrupulous elements to use the document prepared on the address of one Jhuggi to claim allotment from DDA against another Jhuggi thereby claiming that the other Jhuggi is also having the same number. It seems that the Appellant/Claimant must have got documents issued on the address of Jhuggi of his parents bearing Jhuggi No. T-54/26 in normal course and he had given the same number to the temple in order to grab allotment from DDA by hook or crook by using the documents pertaining to the Jhuggi of his parents.

19. The Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi bearing Jhuggi No. T-54/26, which is used as temple but his claim was rejected by Eligibility Determination Committee on the ground that the said structure was found to be a temple and accordingly, aggrieved by the same, he has filed the present Appeal No. 04-S of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

20. The Appellant/Claimant has also tendered a Pen drive (Annexure-I) containing the video clip of the said temple. The video was saved in the computer. The video was played before

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the Appellant/Claimant when his statement was recorded before us on 23.08.2024 wherein he has stated that in the said video clip, a single storey temple having roof made with asbestos sheet is seen and further, he is seen and also heard stating that it is a temple open to the general public and he is the caretaker.

21. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that a single storey temple bearing Jhuggi No. T-54/26 was constructed by the general public with public donations and it is open to the general public for religious purposes and further the Appellant/Claimant is working as caretaker to look after and clean the temple, which is open to general public. This shows that the Jhuggi No. T-54/26, Shalimar Bagh was exclusively used as temple on the cutoff date of 01.01.2015 and it has not been used for residential purposes.

22. The material placed on file as well as the the video clip (Annexure-I) shows that Jhuggi No. T-54/26, Shalimar Bagh is a single storey structure and on the cutoff date of 01.01.2015 it was & still it is predominantly a Religious Structure and used as "Temple" and open for general public to offer worship. The Appellant/Claimant is working as caretaker to look after and clean the temple, which is open to general public and it has not been used for residential purposes. This shows that the Jhuggi bearing survey No. T-54/26, Shalimar Bagh is not used by the Appellant/ Claimant for residential purposes but this structure has been used for Religious purposes and accordingly, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

23. Now, we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

24. The Appellant/Claimant has tendered his Voter ID Card No. JFK 1613719 (Annexure-A),

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Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2022 (Annexure-H) in support of his claim.

25. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number JFK 1613719 (Annexure-A) and it has been issued on 08.11.2021, much after the cut off date of 01.01.2015 and accordingly, the question of his name arising in any of the Voter Lists of the years from 2012 to 2015 does not arise. The name of the Appellant/Claimant appears at Sl. No. 879 in the Voter List of the year 2022 (Annexure-H) but it is not relevant as it pertains to post cutoff date of 01.01.2015. Further, the Aadhar Card (Annexure-B) of the Appellant/Claimant has been issued on 04.02.2012. However, all these documents have been issued on the address of his parents and accordingly, these documents are not relevant to determine the eligibility of the Appellant/Claimant.

26. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name also does not appear in the Voter List of the years of 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further he does not possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and furthermore, as per our discussion above, the Jhuggi No T-54/26, Shalimar Bagh, regarding which he is claiming allotment from DDA, was not used for residential purposes on the cutoff date of 01.01.2015 but it was a Religious Structure as "Temple" and was exclusively used for religious purposes by general public and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

27. The Appellant/Claimant has also tendered the Voter ID Card No. JFK 2374197 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Meera Devi as well as his Driving Licence (Annexure-G) in support of his claim.

28. It is pointed out that the Voter ID Card No. JFK 2374197 (Annexure-D) of his wife Meera has been issued on 09.12.2022, much after the cut off date of 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the years from 2012 to 2015 does not arise. Further, her Aadhar Card (Annexure-E) has been issued on 20.08.2013. The Driving Licence (Annexure-G) of the Appellant/Claimant has been issued on 05.07.2012. However, the material placed on file shows that neither the Appellant/Claimant nor his

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wife Meera was having a valid Voter ID Card on the cutoff date of 01.01.2015 and their name also do not appear in the Voter List of the years of 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Jhuggi No T-54/26, Shalimar Bagh, regarding which he is claiming allotment from DDA, was not used for residential purposes on the cutoff date of 01.01.2015 but it was a Religious Structure as "Temple" and was exclusively used for religious purposes by general public and further the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name also does not appear in the Voter List of the years of 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further he does not possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

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

30. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Jhuggi No. T-54/26, Shalimar Bagh, regarding which he is claiming allotment from DDA, was not used for residential purposes on the cutoff date of 01.01.2015 but it was a Religious Structure as "Temple" and was exclusively used for religious purposes by general public and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued

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by DDA. Furthermore, the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. T-54/26, Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further he does not possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority to get alternative allotment on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-I, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make his eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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 or illegality in the impugned order bearing "Survey Number 32/1206" dated 13.03.2024. 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

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Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF SHALIMAR BAGH

Appeal No: 06-S of 2024

Date of Institution: 16.05.2024

Date of Order: 14.02.2025

Present: Appellant/ Claimant Pooja Kumari W/o Raja Kumar D/o Mahesh Rai

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 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. 177, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. The Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the Appellant/ Claimant was found to have been using the said Jhuggi No. 177,

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Shalimar Bagh for religious purposes as "Temple" and accordingly the present Appellant/ Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and consequently the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing "Survey Number 325/1212" dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 06-S of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 23.08.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant/ Claimant's Jhuggi bearing No. 177, Shalimar Bagh was found to have been used for religious purposes as "Temple" 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 13.03.2024 whereby the reasons for rejection is mentioned to be **"Temple"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/ Claimant Ram. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. 177, Shalimar Bagh was rightly found to have been exclusively used for religious purposes as "Temple" on the cutoff date of 01.01.2015 and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

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8. Therefore, it has to be first seen as to what is the legal position with regard to the Jhuggi, which was found to be Religious Structure exclusively used for religious purposes, under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

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

9. The JJ Rehabilitation and Relocation Policy, 2015 (PART-B) delineates eligibility criteria for the allotment of alternative dwelling units to rehabilitate and relocate Jhuggi Jhopri dwellers. To qualify for the same, the Jhuggi Jhopri dwellers must be Indian citizens aged 18 or above, residing in a basti established before 01.01.2006, with a cutoff date for residency eligibility of 01.012015. It is further stipulated that their names must appear in voter lists from 2012 to 2015 and in a joint survey conducted by by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India.

10. It is mandated that there is verification in terms of biometric authentication via Aadhar Card or other mechanisms, along with possession of one of 12 specified documents issued before 01.01.2015. The specified documents for eligibility encompass passports, ration cards with photographs, electricity bills, driving licenses, identity cards issued by government bodies, passbooks from public sector banks or post offices, and various

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certificates such as SC/ST/OBC, pension, freedom fighter, physically handicapped, and health insurance scheme cards. Identity cards issued by government schools or certificates attested by school principals for descendants of JJ dwellers are also acceptable.

11. It is further stipulated that the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit. Ineligible JJ dwellers face eviction during rehabilitation, relocation, or basti clearance.

12. It is pointed out that the bare perusal of the Policy shows that it provides the scheme to rehabilitate and relocate Jhuggi Jhopri dwellers and accordingly the prime most condition is that the applicant must be living in the Jhuggi regarding which he is claiming allotment from DDA and in other words the Jhuggi should be used for residential purposes. In addition to that the cases in which the Jhuggi is used for both residential & commercial purposes to earn his livelihood, the applicant is entitled to claim alternative allotment as the use of the Jhuggi for mixed use for residential-cum-commercial purposes is permitted under the policy. But alternative allotment cannot be made under the DDA policy when the Jhuggi is exclusively used for commercial purposes or for Religious Purposes. The Religious Structure falls under separate category because such structures are predominantly used for religious purposes unconnected with residential or commercial activities. Furthermore, the Religious Structure does not fall under the category of residential or commercial purposes. Under the policy of DDA the dwellers are entitled to claim alternative allotment only when the Jhuggi is used (i) for residential purposes or (ii) for both residential & commercial purposes. Therefore, use of the Jhuggi as Religious Structure does not fall under the category of residential purposes or mixed use for residential-cum-commercial purposes. It is pertinent to point out that the nature of the Jhuggi is determined by the dominant purposes for which it is used. The residential dwelling unit, which is having a personal temple/worship area, will retain its nature to be residential because of the reason that it is predominantly used as residential and further the personal temple/worship area is not open to general public to offer worship. But in case of Jhuggi used as Religious Structure its predominant use is religious, which is open to general public for worship, and the facts that the Pujari/Priest also resides in such Religious Structure will not change its nature to

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residential because it happens to be predominantly used as Religious Structure and further it is open to general public for worship. Therefore, no allotment against the Religious Structure can be made under the policy guidelines issued by DDA.

13. In the light of our discussion above, we shall now appraise the material placed on file by to determine as to whether the Appellant/ Claimant was using the Jhuggi No. 177, Shalimar Bagh exclusively as Religious Structure or for residential purposes or for mixed residential-cum-commercial purposes and whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said Jhuggi No. 177, Shalimar Bagh as per the policy guidelines issued by DDA.

14. First of all, we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was using the Jhuggi No. 177, Shalimar Bagh exclusively as Religious Structure or for residential purposes or for mixed residential-cum-commercial purposes because as already pointed out above, the use of Jhuggi as Religious Structure precludes dwelling unit allocation as per the policy guideline issued by DDA.

15. The statement of the Appellant/Claimant Pooja has been recorded before us on 23.08.2024 wherein she has stated that her parents; Mahesh Rai & Renu Devi, are having four daughters; Pooja, Radha, Rukmani & Subhadra. All the daughters except Pooja are unmarried. Pooja (Appellant/Claimant) is married with Raja Kumar in the year 2021.

16. The Appellant/Claimant has stated that her parents; Mahesh Rai & Renu Devi, were having a single storey Jhuggi No. 177, Shalimar Bagh and about three-four years ago, it was converted into a double storey structure. Her parents; Mahesh Rai & Renu Devi, along with all the three unmarried daughters are living in the said double storey Jhuggi No. 177 and regarding that DDA has made allotment in favour of her father Mahesh Rai. These facts are not disputed by DDA.

17. The Appellant/Claimant has stated that she is a religious minded person and previously she was living in a temple, which is situated 4-5 Jhuggi away from the Jhuggi of her parents.

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This temple is a public temple and open to the general masses. Previously the said temple was single storey structure. However, in the year 2021, she was married with Raja Kumar and after her marriage one room on the first floor of the said temple was constructed and it was also given the Jhuggi No. 177. The Appellant/Claimant along with her husband Raja Kumar started living on the first floor whereas the ground floor is used as temple.

18. However, it is very surprising that the temple and the Jhuggi of her parents are bearing same Jhuggi number, namely, Jhuggi No. 177. Further, two Jhuggis having the same number creates doubt & suspicion because it gives an opportunity to unscrupulous elements to use the document prepared on the address of one Jhuggi to claim allotment from DDA against another Jhuggi thereby claiming that the other Jhuggi is also having the same number. It seems that the Appellant/Claimant must have got documents issued on the address of Jhuggi of her parents bearing Jhuggi No. 177 in normal course and she had given the same number to the temple in order to grab allotment from DDA by hook or crook by using the documents pertaining to the Jhuggi of her parents.

19. The Appellant/Claimant has stated that she has sought allotment from DDA against the same temple/room on the first floor bearing Jhuggi No. 177 but her claim was rejected by Eligibility Determination Committee on the ground that the said structure was found to be a temple and accordingly, aggrieved by the same, she has filed the present Appeal No. 06-S of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

20. The Appellant/Claimant has also tendered a Pen drive (Annexure-H) containing the video clip of the said temple. The video was saved in the computer. The video was played before the Appellant/Claimant when her statement was recorded before us on 23.08.2024 wherein she has stated that in the said video clip, a small temple open for general masses is seen on the ground floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor where one room is seen to have been used for residential purposes.

21. The admission of the Appellant/Claimant is a clincher piece of evidence because she has categorically admitted that the Jhuggi of her parents; Mahesh Rai & Renu Devi, as well as

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the temple in question are having same number i.e. Jhuggi No. 177 and accordingly, two Jhuggis having the same number creates doubt & suspicion because it gives an opportunity to unscrupulous elements to use the document prepared on the address of one Jhuggi to claim allotment from DDA against another Jhuggi thereby claiming that the other Jhuggi is also having the same number.

22. Furthermore, the Appellant/Claimant has admitted that she is a religious minded lady and previously she was also living in the single storey temple bearing Jhuggi No. 177. However, the Appellant/Claimant has categorically admitted that in the year 2021 she was married with Raja Kumar and accordingly one room was constructed on the first floor of the said temple in the year 2021 and the newly wedded couple started living on the first floor with effect from 2021.

23. The admission of the Appellant/Claimant accordingly shows that on the cut off date of 01.01.2015, the said temple bearing Jhuggi No. 177 was a single storey structure and it was converted into double storey structure in the year 2021, much after the cut off date of 01.01.2021. Therefore, we have no hesitation in holding that the Jhuggi No. 177, regarding which the Appellant/Claimant has sought allotment from DDA, was a single storey structure and it was exclusively used as temple on the cut off date of 01.01.2015. The fact that the Appellant/Claimant was living there and managing the temple as Pujari or caretaker does not change its nature to residential but the single storey structure bearing Jhuggi No. 177 predominantly remained to be a Religious Structure as it has been used as "Temple" & open for general public to offer worship. This shows that the Jhuggi No. 177, Shalimar Bagh was exclusively used as temple on the cutoff date of 01.01.2015 and it has not been used for residential purposes.

24. The material placed on file as well as the the video clip (Annexure-H) shows that Jhuggi No. 177, Shalimar Bagh was a single storey structure on the cutoff date of 01.01.2015 and it was & still it is predominantly a Religious Structure and used as "Temple" and open for general public to offer worship. The Appellant/Claimant is working as Pujari or caretaker to look after and clean the temple, which is open to general public and it has not been used for residential purposes. This shows that the Jhuggi bearing survey No. 177, Shalimar Bagh is not used by the Appellant/ Claimant for residential purposes but this structure has been

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predominantly used for Religious purposes and accordingly, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

25. Now, we shall appraise the material placed on file to determine the eligibility of the 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) & also in the year of survey and whether she possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

26. The Appellant/Claimant has tendered her Voter ID Card No. JFK 2315240 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

27. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number JFK 2315240 (Annexure-A) and it has been issued on 28.09.2020, much after the cut off date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter Lists of the years from 2012 to 2015 does not arise. Further, her Aadhar Card is bearing No. 4404 4643 4988 (Annexure-B) and it has been issued on 27.07.2018, much after the cut off date of 01.01.2015. However, all these documents have been issued on the address of her parents and accordingly, these documents are not relevant to determine the eligibility of the Appellant/Claimant.

28. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name also does not appear in the Voter List of the years of 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further she does not possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and furthermore, as per our discussion above, the Jhuggi No. 177, Shalimar Bagh, regarding which she is claiming allotment from DDA, was not used for residential purposes on the cutoff date of 01.01.2015 but it was a Religious Structure as "Temple" and was exclusively used for religious purposes by general public and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

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29. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-D) of her husband Raja Kumar as well as Electricity Bill (Annexure-E), Passbook of Union Bank (Annexure-F) and Ration Card (Annexure-G) in support of her claim.

30. It is pointed out that the Appellant/Claimant has tendered the Aadhar Card (Annexure-D) of her husband Raja Kumar and it was issued on the address of District Samastipur, Bihar and accordingly this document is not relevant as it has not been issued on the address of the Jhuggi No. 177, Shalimar Bagh, regarding which the Appellant/Claimant has been claiming allotment from DDA. However, the Voter ID Card of Raja Kumar has not been tendered by the Appellant/Claimant to show that he has been living in the said Jhuggi No. 177. Further, the Electricity Bill (Annexure-E) shows that her father Mahesh Rai had taken the electricity connection on 02.08.2011 and furthermore, this document pertains to the Jhuggi No. 177 of her father Mahesh Rai and regarding that DDA has already made alternative allotment in favour of Mahesh Rai and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant as it has not been issued on the address of the Jhuggi No. 177, Shalimar Bagh, regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of Union Bank (Annexure-F) shows that the Appellant/Claimant has opened the account on 28.09.2012. However, this document has been issued on the address of his parents bearing Jhuggi No. 177 of her parents and accordingly, it is not relevant. The Ration Card (Annexure-G) is bearing No. 077002450428 and it has been issued in favour of her mother Renu Devi and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned therein. However, this document has also been issued on the address of his parents bearing Jhuggi No. 177 of her parents and accordingly, it is not relevant. 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 Jhuggi No. 177, Shalimar Bagh, regarding which she is claiming allotment from DDA, was not used for residential purposes on the cutoff date of 01.01.2015 but it was a Religious Structure as "Temple" and was exclusively used for religious purposes by general public and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

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

32. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Jhuggi No. 177, Shalimar Bagh, regarding which she is claiming allotment from DDA, was not used for residential purposes on the cutoff date of 01.01.2015 but it was a Religious Structure as "Temple" and was exclusively used for religious purposes by general public and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA. Furthermore, the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 177, Shalimar Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further she does not possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority to get alternative allotment on the basis of wrong and false facts inspite of the fact that she very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-

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A to Annexure-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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 or illegality in the impugned order bearing "Survey Number 325/1212" dated 13.03.2024. 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**

EFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF SHALIMAR BAGH

Appeal No: 12-S of 2024

Date of Institution: 16.05.2024

Date of Order: 17.02.2025

Present: Appellant/ Claimant Sharvan Kumar S/o Mahender Das

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 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. T-54/121, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. T-54/121 was found to exist but he had failed to submit requisite documents as per the policy

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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, Shalimar Bagh, duly communicated its order bearing "Survey Number 255/1224" dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 12-S of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 09.09.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records the Jhuggi bearing No. T-54/121 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 13.03.2024 whereby the reasons for rejection is mentioned to be **"Second documents not tendered"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and

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whether he is entitled to claim allotment against the Jhuggi No. T-54/121 as per the policy guidelines issued by DDA.

8. The statement of the appellant/claimant Sharvan Kumar has been recorded before us on 09.09.2024, wherein he has stated that his parents, Mahender Das & Girja Devi are having four sons, Sanjay, Rajiv, Sharvan & Raja and four daughters, Mamta, Ruby, Rani & Laxmi. All the children are married. Mamta is married with Ramesh and she is living in her matrimonial home in Dakshinpuri, Delhi. Rani is married with Vinay and she is living in her matrimonial home in Nangloi, Delhi. Ruby is married with Nirmal and Laxmi is married with Balbir and both of them are living in their respective matrimonial homes in Uttam Nagar, Delhi. Sanjay is married with Sangeeta and having three children. Rajiv is married with Anita and having three children. Raja is married with Priyanka and having three children. Sharvan (Appellant/Claimant) is married with Gunja and having one son, Shiva.

   The Appellant/Claimant has stated that his family is having four Jhuggies in Shalimar Bagh bearing numbers 251, 252, 54/121 & 54/192.

   Jhuggi No. 251, Shalimar Bagh.

9. The Appellant/Claimant has stated that his brother Sanjay along with his wife Sangeeta and children is living in Jhuggi No. 251, Shalimar Bagh and regarding that DDA has made allotment in his favour. These facts are not disputed by DDA.

   Jhuggi No. 252, Shalimar Bagh.

10. The Appellant/Claimant has stated that his brother, Rajiv along with his wife Anita and children is living in Jhuggi No. 252, Shalimar Bagh and regarding that Rajiv has also sought allotment from DDA but his claim is pending before the Eligibility Determination Committee thereby awaiting determination of the eligibility.

    Jhuggi No. 54/121, Shalimar Bagh.

11. The Appellant/Claimant has stated that his parents, Mahender Das & Girja Devi, along with the family of their son, Raja is living in Jhuggi No. 54/121. This is a single storey structure and regarding that DDA has made allotment in favour of his father, Mahender Das vide Allotment Letter dated 12.06.2024 (Annexure-H). These facts are not disputed by DDA.

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Jhuggi No. 54/192, Shalimar Bagh.

12. The Appellant/Claimant has stated that he along with his wife Gunja and son Shiva is living in Jhuggi No. 54/192 and it is a single storey structure. The Appellant/Claimant has stated that he has sought allotment from DDA against the said Jhuggi No. 54/192 but his claim has been rejected by the Eligibility Determination Committee on the ground that he was not having the requisite documents and accordingly his claim was rejected and the Rejection Order was communicated to him by the Nodal Officer vide Letter bearing "Survey Number 255/1224" dated 13.03.2024 but in the Rejection Order instead of mentioning his name (Appellant/Claimant - Sharvan S/o Mahender) the name of his father Mahender S/o Baleshwar has been mentioned and further number of his Jhuggi has been wrongly mentioned to be 54/121 instead of 54/192 in spite of the fact that he has sought allotment from DDA against Jhuggi No. 54/192, Shalimar Bagh and not against Jhuggi No. 54/121 which belongs to his father Mahender Das and further he is having all the requisite document as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 12-S of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. The Appellant/Claimant has categorically admitted that he along with his family is living separately and independently in Jhuggi No. 54/192, Shalimar Bagh but in the representation he had wrongly mentioned the number of his Jhuggi to be bearing 54/121 because he was having documents prepared on the address of Jhuggi of his father Mahender. This accordingly shows that the Appellant/Claimant has made a wrong statement that in the Rejection Order dated 13.03.2024 (Annexure-I) the number of his Jhuggi has been wrongly mentioned to be Jhuggi No. 54/121 but the material placed on file shows that the Appellant/Claimant is having documents prepared on the address of Jhuggi of his parents bearing number 54/121, Shalimar Bagh and accordingly he himself had supplied the number of Jhuggi to be 54/121 in his representation for claiming alternative allotment from DDA.

14. However, as far as not mentioning the name of the Appellant/Claimant in the Rejection Order dated 13.03.2024 (Annexure-I) is concerned it is not material because it seems that due to clerical mistake instead of the name of the present Appellant/Claimant Sharvan

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Kumar S/o Mahender, the name of his father Mahender S/o Baleshwar was mentioned in the Rejection Order 13.03.2024 (Annexure-I). However, wrongly mentioning the number of his Jhuggi by the Appellant/Claimant in his representation made to DDA creates doubt & suspicion and it seems that he is concealing the material facts in order to grab allotment from DDA by hook or crook because admittedly he is not having any documents issued on the address of Jhuggi No. 54/192 regarding which he is allegedly claiming allotment from DDA but all the documents annexed with his representative have been admittedly issued on the address of Jhuggi 54/121 belonging to his parents.

15. The admission of the Appellant/Claimant is clincher piece of evidence because he has intentionally given the number of the Jhuggi of his father, namely, T-54/121 in his representation with a dishonest intention to cheat & defraud DDA to grab allotment by hook or crook because he has specifically admitted that despite the fact that he is living in Jhuggi No. 54/192, he had given the number of Jhuggi No. T-54/121 of his father because he wanted to use the documents issued on the address of his father bearing Jhuggi No. T-54/121 to get allotment from DDA.

16. The factum of intentionally giving wrong number of Jhuggi in the representation and getting the survey conducted on some other Jhuggi reflects fraudulent acts on part of the present Appellant/Claimant and then making a statement before us in order to shift blame on DDA that in the Rejection Order DDA has given wrong number of Jhuggi and it shows that he was acting in execution of conspiracy to cheat & defraud DDA. Furthermore, the survey team of DDA has not found the Jhuggi No. 54/192 because the Appellant/Claimant had himself given the number of Jhuggi No. T-54/121 of his father in the representation to claim allotment in his individual capacity and accordingly the survey team had found the Jhuggi No. T-54/121 belonging to his father Mahender in existence in Shalimar Bagh and regarding that DDA has already made allotment in favour of his father Mahender and accordingly double allotment against that Jhuggi is not permissible as per the policy guidelines issued by DDA. Thus 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 the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015

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and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. T-54/121, Shalimar Bagh 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-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further 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 "Survey Number 255/1224" dated 13.03.2024.

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>**

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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."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

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

43. It is pointed out that we have already held that the Appellant/Claimant has intentionally given the number of the Jhuggi of his father, namely, T-54/121 in his representation with a dishonest intention to cheat & defraud DDA to grab allotment by hook or crook because he has specifically admitted that despite the fact that he is living in Jhuggi No. 54/192, he had given the number of Jhuggi No. T-54/121 of his father because he wanted to use the documents issued in normal course on the address of his father bearing Jhuggi No. T-54/121 to get allotment from DDA. Furthermore, the survey team of DDA has not found the Jhuggi No. 54/192 because the Appellant/Claimant had himself given the number of Jhuggi No. T-54/121 of his father in the representation to claim allotment in his individual capacity and

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accordingly the survey team had found that the Jhuggi No. T-54/121 belonging to his father Mahender in existence in Shalimar Bagh and regarding that DDA has already made allotment in favour of his father Mahender and accordingly double allotment against that Jhuggi is not permissible as per the policy guidelines issued by DDA. But inspite of that the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi and accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. T-54/121, Shalimar Bagh as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered his Voter ID Card No. ZFK 1570050 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

46. It is pointed out that the Voter ID Card No. ZFK 1570050 (Annexure-A) of the Appellant/Claimant has been issued on 21.04.2015, much after the cutoff date 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. Furthermore, the Appellant/Claimant has tendered his Aadhar Card No. 9255 6703 6754 (Annexure-B) but the date of issuance is not mentioned in that document. Further, all these documents have been issued on the address of Jhuggi No. T-54/121 belonging to his father Mahender whereas the Appellant/Claimant has made statement before us that he is living in Jhuggi No. 54/192 and has claimed allotment against Jhuggi No. 54/192 and not against Jhuggi No. T-54/121. Even if for the sake of arguments, the eligibility of the Appellant/Claimant is considered against Jhuggi No. T-54/121 or Jhuggi No. 54/192 the net result is same because he is not having requisite documents as per the policy guidelines issued by DDA.

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47. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. T-54/121 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The Appellant/Claimant has tendered the Voter ID Card No. ZFK 2368157 (Annexure-D), Aadhar Card (Annexure-E) and PAN Card (Annexure-F) of his wife Gunja and the Passbook of SBI (Annexure-G) in support of his claim.

49. It is pointed out that the Voter ID Card No. ZFK 2368157 (Annexure-D) of his wife Gunja has been issued on 12.02.2024, much after the cutoff date 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the year 2012 to 2015 does not arise. Furthermore, the Appellant/Claimant has tendered the Aadhar Card No. 3006 1009 4119 (Annexure-E) of his wife Gunja and it has been issued on 05.02.2015, much after the cutoff date 01.01.2015. The material placed on file shows that neither the Appellant/Claimant nor his wife Gunja was having a valid Voter ID Card on the cutoff date 01.01.2015 and further, their names also do not appear in the Voter List of the year from 2012 to 2015. Furthermore, the Passbook of SBI (Annexure-G) shows that the Appellant/Claimant had opened the account on 13.02.2023, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. T-54/121, Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

50. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down

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

51. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant has intentionally given the number of the Jhuggi of his father, namely, T-54/121 in his representation with a dishonest intention to cheat & defraud DDA to grab allotment by hook or crook because he has specifically admitted that despite the fact that he is living in Jhuggi No. 54/192, he had given the number of Jhuggi No. T-54/121 of his father because he wanted to use the documents issued on the address of his father bearing Jhuggi No. T-54/121 to get allotment from DDA. Furthermore, the survey team of DDA has not found the Jhuggi No. 54/192 because the Appellant/Claimant had himself given the number of Jhuggi No. T-54/121 of his father in the representation to claim allotment in his individual capacity and accordingly the survey team had found the Jhuggi No. T-54/121 belonging to his father Mahender in existence in Shalimar Bagh and regarding that DDA has already made allotment in favour of his father Mahender and accordingly double allotment against that Jhuggi is not permissible as per the policy guidelines issued by DDA and further the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. T-54/121, Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not

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

52. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing "Survey Number 255/1224" dated 13.03.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit

53. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. 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 SHALIMAR BAGH

Appeal No: 13-S of 2024

Date of Institution: 16.05.2024

Date of Order: 17.02.2025

Present: Appellant/ Claimant Shubhankar Biswas S/o Shankar Biswas

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 passed by the Eligibility Determination Committee.

2. In brief, the erstwhile owner Kanshi Prasad S/o Khudur Prasad, who is predecessor-in-interest of the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. 217, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The said Kanshi Prasad S/o Khudur Prasad had submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the said Kanshi Prasad S/o Khudur Prasad thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the said Kanshi Prasad S/o Khudur Prasad was given an opportunity for submission of required documents but the said Kanshi Prasad S/o Khudur Prasad had failed to submit requisite documents. As per survey records, the Jhuggi bearing No. 217 of the said Kanshi Prasad S/o

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Khudur Prasad 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 said Kanshi Prasad S/o Khudur Prasad for alternative allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing "Survey Number 138/1198" dated 13.03.2024 to the said Kanshi Prasad S/o Khudur Prasad. Aggrieved by the same, the said Kanshi Prasad S/o Khudur Prasad had chosen not to file appeal but instead the present Appeal No. 13-S of 2024 has been filed by the present Appellant/ Claimant being his successor-in-interest.

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

4. The statement of the Appellant/Claimant has been recorded before us on 09.09.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Jhuggi bearing No. 217 of the said Kanshi Prasad S/o Khudur Prasad was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the said Kanshi Prasad S/o Khudur Prasad, which was communicated to him by the Nodal Officer vide Rejection Order dated 13.03.2024 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the said Kanshi Prasad S/o Khudur Prasad had chosen not to file appeal but instead the present Appeal No. 13-S of 2024 has been filed by the present Appellant/ Claimant being his successor-in-interest.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the the said Kanshi Prasad S/o Khudur Prasad. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name

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appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the the said Kanshi Prasad S/o Khudur Prasad was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether the said Kanshi Prasad S/o Khudur Prasad is entitled to claim allotment against the Jhuggi No. 217 as per the policy guidelines issued by DDA and what is the rights of the present Appellant/Claimant being his his successor-in-interest.

8. The statement of the Appellant/Claimant Subhankar Biswas has been recorded before us on 09.09.2024, wherein he has stated that his parents, Shankar Biswas & Samuli Biswas are having one son, Subhankar Biswas and one daughter, Mukti. Both the children are married. Mukti is married with Shankar and she is living in her matrimonial home in Kolkata, West Bengal. Subhankar Biswas (Appellant/Claimant) is married with Mampi and having one son Soumyadip.

9. The Appellant/Claimant has stated that previously he was living on rent in Shalimar Bagh. Jhuggi No. 217 is a single storey structure and it comprises of one room. Previously this Jhuggi bearing number 217 belonged to Kanshi Prasad S/o Khudur Prasad in which the said Kanshi Prasad S/o Khudur Prasad was living with his family. The said Kanshi Prasad S/o Khudur Prasad had sold the single storey Jhuggi No. 217 to Subhankar Biswas (Appellant/Claimant) for a sale consideration of Rs. 2,90,000/- vide Agreement to Sell dated 28.12.2018 (Annexure-A).

10. The Appellant/Claimant has stated that after purchasing the said Jhuggi No. 217, Shalimar Bagh from Kanshi Prasad, the Appellant/Claimant Subhankar Biswas started living in the said Jhuggi No. 217 in the year 2018.

11. The Appellant/Claimant has stated that the erstwhile owner Kanshi Prasad along with his family was living in Jhuggi No. 217 before he had sold the said Jhuggi No. 217 to Subhankar Biswas (Appellant/Claimant) in the year 2018. The said Kanshi Prasad had sought allotment from DDA against the said single storey Jhuggi No. 217 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and the Rejection Order dated 13.03.2024 (Annexure-M) was communicated to Kanshi Prasad. However, the said Kanshi Prasad had not filed appeal against the Rejection Order dated 13.03.2024 (Annexure-M) because subsequently he had sold his Jhuggi No. 217 to Subhankar Biswas in the year 2018. Therefore, the Appellant/Claimant Subhankar Biswas,

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who had subsequently purchased the said Jhuggi No. 217 in the year 2018 and feeling aggrieved by the Rejection Order dated 13.03.2024 (Annexure-M) has filed the present Appeal No. 13-S of 2024 before the Appellate Authority for redressal. The Appellant/ Claimant has also tendered document, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour being the subsequent purchaser from the sole owner Kanshi Prasad.

12. It is pointed out that the Appellant/Claimant was not living in the Jhuggi No. 217, Shalimar Bagh on the cutoff date of 01.01.2015. But he has allegedly purchased the Jhuggi No. 217 from Kanshi Prasad S/o Khudur Prasad on 28.12.2018 vide Agreement to Sell dated 28.12.2018 (Annexure-A). This shows that before 28.12.2018 the present Appellant/Claimant was not having any concern whatsoever with the Jhuggi No. 217, Shalimar Bagh. It is pertinent to point out that it is settled law that no title is transferred through Agreement to Sell. However, this document can be used for collateral purposes to see as to who was in possession of the property, which was the subject matter of the said Agreement to Sell. The fact remains that the Appellant/Claimant has specifically admitted that he came in possession of Jhuggi No. 217, Shalimar Bagh on 28.12.2018.

13. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that on the cutoff date 01.01.2015 Kanshi Prasad S/o Khudur Prasad was the owner of Jhuggi No. 217 and he along with his family was living there. Furthermore, the said Kanshi Prasad S/o Khudur Prasad had filed the representation to DDA for claiming alternative allotment against Jhuggi No. 217 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified. However, the said Kanshi Prasad had not filed appeal against the Rejection Order dated 13.03.2024 (Annexure-M) because he was left with no concern in Jhuggi No. 217 as he had subsequently sold it on 28.12.2018 to Subhankar Biswas (Appellant/Claimant) but Subhankar Biswas (Appellant/Claimant) having purchased the Jhuggi No. 217 in the year 2018 from the said Kanshi Prasad had filed the present Appeal No. 13-S of 2024 before the Appellate Authority for redressal because he was the affected party and being aggrieved by the Rejection Order dated 13.03.2024 (Annexure-M). However, the fact remains that the present Appellant/Claimant Subhankar Biswas had stepped into the shoes of the erstwhile owner Kanshi Prasad because he had come into the picture in the year 2018 much after the cutoff date 01.01.2015. Therefore,

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the present Appellant/Claimant Subhankar Biswas shall inherit whatever rights the erstwhile owner was having. We have to see the eligibility of Kanshi Prasad as on 01.01.2015 to determine as to whether the said Kanshi Prasad S/o Khudur Prasad was eligible to claim the alternative allotment from DDA or not. If, Kanshi Prasad is held eligible then his right, title and interest shall be acquired/inherited by the present Appellant/Claimant Subhankar Biswas but if the said Kanshi Prasad is held ineligible then the present Appellant/Claimant shall be left with no right title or interest to claim alternative allotment because his right shall go away with the rights of Kanshi Prasad.

14. It is pointed out that DDA has not disputed that no videography was conducted by DDA in Shalimar Bagh and accordingly, no video clip of Jhuggi No. 217 is available. However, it is pertinent to point out that DDA has also not disputed about the existence of single storey Jhuggi No. 217 of the said Kanshi Prasad S/o Khudur Prasad but his claim has been rejected on the sole ground that his Voter ID Card could not be verified. Accordingly, thereby taking holistic view we shall appraise the material placed on file to determine the eligibility of the said Kanshi Prasad S/o Khudur Prasad as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the said Kanshi Prasad S/o Khudur Prasad was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether the said Kanshi Prasad S/o Khudur Prasad is entitled to claim allotment against the Jhuggi No. 217 as per the policy guidelines issued by DDA.

15. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records, about the existence of the single storey Jhuggi No. 217 of the said Kanshi Prasad S/o Khudur Prasad. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the Jhuggi No. 217 was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the the said Kanshi Prasad S/o Khudur Prasad was using the same for residential purposes.

16. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. 217 was in existence in the Shalimar Bagh on the cutoff date of 01.01.2015 and the said Kanshi Prasad S/o Khudur Prasad along with his family was using the same for residential purposes up to

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28.12.2018 and from 28.12.2018 onward the Appellant/Claimant has been using the same for residential purposes and further the Appellant/ Claimant under the erstwhile owner Kanshi Prasad S/o Khudur Prasad has claimed alternative allotment from DDA against the said Jhuggi.

17. Now we shall first appraise the material placed on file to determine the eligibility of the the said Kanshi Prasad S/o Khudur Prasad. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the the said Kanshi Prasad S/o Khudur Prasad was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether the said Kanshi Prasad S/o Khudur Prasad is entitled to claim allotment against the Jhuggi No. 217 as per the policy guidelines issued by DDA and what is the rights of the present Appellant/Claimant being his successor-in-interest.

18. The Appellant/ Claimant has stated that the claim of the said Kanshi Prasad S/o Khudur Prasad has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of the claim of the said Kanshi Prasad S/o Khudur Prasad and prayed that DDA be directed to make allotment in his favour being the successor-in-interest of the said Kanshi Prasad S/o Khudur Prasad.

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.

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

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

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

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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."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

37. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate

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

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

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

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

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

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

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

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

42. It is pointed out that we have already held that the single storey Jhuggi No. 217 was in existence in the Shalimar Bagh on the cutoff date of 01.01.2015 and the said Kanshi Prasad S/o Khudur Prasad along with his family was using the same for residential purposes up to 28.12.2018 and from 28.12.2018 onward the Appellant/Claimant has been using the same for residential purposes and further the Appellant/ Claimant under the erstwhile owner Kanshi Prasad S/o Khudur Prasad has claimed alternative allotment from DDA against the said Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall first appraise the material placed on file to determine the eligibility of the the said Kanshi Prasad S/o Khudur Prasad. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the the said Kanshi Prasad S/o Khudur Prasad was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether the said Kanshi Prasad S/o Khudur Prasad is entitled to claim allotment against the Jhuggi No. 217 as per the policy guidelines issued by DDA and what is the rights of the present Appellant/Claimant being his successor-in-interest.

44. The Appellant/Claimant has tendered Voter ID Card No. ZFK 1161140 (Annexure-B) & Aadhar Card No. 3743 4895 2793 (Annexure-C) of erstwhile owner Kanshi Prasad and Ration Card (Annexure-D).

45. It is pointed out that the Voter ID Card No. ZFK 1161140 (Annexure-B) of Kanshi Prasad has been issued on 08.05.2010, much prior to the cutoff date 01.01.2015 but no Voter List has been placed on file to show that this Voter ID Card No. ZFK 1161140 (Annexure-B) was used by Kanshi Prasad to cast vote in any of the elections and more particularly in the years from

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2012 to 2015. Furthermore, Aadhar Card No. 3743 4895 2793 (Annexure-C) of Kanshi Prasad is placed on file but the date of issuance is not mentioned in that document. Furthermore, Ration Card No. 077002443182 (Annexure-D) has been issued in favour of Champa Devi W/o Kanshi Prasad but the date of issuance is not mentioned.

46. Therefore, we have no hesitation in holding that the said Kanshi Prasad S/o Khudur Prasad was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. 217 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the the said Kanshi Prasad S/o Khudur Prasad does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The Appellant/Claimant has tendered his Voter ID Card No. ZFK 2022184 (Annexure-E) and Aadhar Card (Annexure-F) as well as the Voter ID Card No. ZFK2341766 (Annexure-G) & Aadhar Card (Annexure-H) of his wife Mampi, Aadhar Card (Annexure-I) of his son, Somyadip, the Electricity Bill (Annexure-J) and two Rejection Order dated 13.03.2024 (Annexure-L & Annexure-M) in support of his claim.

48. It is pointed out that the Voter ID Card No. ZFK 2022184 (Annexure-E) of the Appellant/Claimant has been issued on 28.10.2020, much after the cutoff date 01.01.2015. Furthermore, Aadhar Card No. 3136 0335 7345 (Annexure-F) of the Appellant/Claimant has been issued on 17.09.2020, much after the cutoff date 01.01.2015. This shows that both the documents have been issued much after the cutoff date 01.01.2015. Furthermore, the material placed on file shows that the Appellant/Claimant Subhankar Biswas had allegedly purchased the Jhuggi No. 217 from the sole owner Kanshi Prasad in the year 2018 and accordingly, the question of his name appearing in the document on the cutoff date 01.01.2015 does not arise.

49. It is pointed out that the Appellant/Claimant has tendered two Rejection Order dated 13.03.2024 (Annexure-L & Annexure-M). In the Rejection Order dated 13.03.2024 (Annexure-L) some alteration is made as point mark X wherein it is mentioned that **"Kanshi Prasad is pate pe nahi rehta, ye Jhuggi bech diya hai Subhankar Ji ko"**. Some similar remark is given on the photocopy of the Voter ID Card No. ZFK 2022184 (Annexure-E) of the Appellant/Claimant Subhankar Biswas.

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50. It is pointed out that the Appellant/Claimant Subhankar Biswas has stated that he had approached the concerned BLO to get his Voter ID Card No. ZFK 2022184 (Annexure-E) verified and the remarks at point X was made by the BLO in the Rejection Order dated 13.03.2024 (Annexure-L) and also in the photocopy of the Voter ID Card No. ZFK2022184 (Annexure-E) whereas no such remark has been given in the original Rejection Order dated 13.03.2024 (Annexure-M).

51. The statement of the Appellant/Claimant Subhankar Biswas cannot be accepted thereby explaining the remarks given in the Rejection Order (Annexure-L) and in the photocopy of the Voter ID Card No. ZFK 2022184 (Annexure-E) by the BLO because there was no reasons for BLO to give such a reports/remarks and that too thereby making alteration in the ground of rejection in the Rejection Order (Annexure-L). This shows that the Appellant/Claimant has tried to create evidence in his favour to show that he had purchased the Jhuggi No. 217 from the erstwhile owner Kanshi Prasad and also to create evidence that he is living in the said Jhuggi No. 217. This accordingly creates doubt & suspicion as remarks were made by way of manipulation in the records in order to grab allotment from DDA by hook or by crook.

52. It is pointed out that the Voter ID Card No. ZFK 2341766 (Annexure-G) of his wife Mampi has been issued on 02.03.2021 and her Aadhar Card No. 7693 1174 4108 (Annexure-H) has been issued on 03.03.2023 thereby showing that both the documents have been issued much after the cutoff date 01.01.2015. The Aadhar Card No. 3733 5372 8961 (Annexure-I) of his son Somyadip has been issued on 21.02.2023. Moreover, the Electricity Bill (Annexure-J) shows that the electricity connection was taken on 28.02.2008 and the name of the Appellant/Claimant Subhankar Biswas is reflected in the electricity bill. However, it is pointed out that the Appellant/Claimant has admitted that the electricity connection was taken by the sole owner Kanshi Prasad in the year 2008 but after purchasing the Jhuggi No. 217, the present Appellant/Claimant had got his name changed in the records of the Electricity Department in the year 2018 and accordingly in Electricity Bill (Annexure-J), the name of the Appellant/Claimant Subhankar Biswas is reflected but the original date of energization of the electricity is mentioned to be 28.02.2008. 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 under the said Kanshi Prasad S/o Khudur Prasad because as per our discussion above the the said Kanshi Prasad

S/o Khudur Prasad was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 217, Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the said Kanshi Prasad S/o Khudur Prasad does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

54. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the said Kanshi Prasad S/o Khudur Prasad is not entitled to alternative allotment because as per our discussion above the said Kanshi Prasad S/o Khudur Prasad was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 217, Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the said Kanshi Prasad S/o Khudur Prasad does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the said Kanshi Prasad S/o Khudur Prasad had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the said Kanshi Prasad S/o Khudur Prasad with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or

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crook. Thus the documents, Annexure-A to Annexure-M, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA under the said Kanshi Prasad S/o Khudur Prasad. Hence, we have no hesitation in holding that the said Kanshi Prasad S/o Khudur Prasad does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of the said Kanshi Prasad S/o Khudur Prasad was rightly rejected by EDC and accordingly no right, title or interest accrues to the present Appellant/ Claimant in respect of Jhuggi No. 217 neither in his individual capacity nor under the said Kanshi Prasad S/o Khudur Prasad.

55. The said Kanshi Prasad S/o Khudur Prasad has made misrepresentation and also futile attempt to suppress material facts. The said Kanshi Prasad S/o Khudur Prasad 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 "Survey Number 138/1198" dated 13.03.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF SHALIMAR BAGH

Appeal No: 16-S of 2024

Date of Institution: 16-05-2024

Date of Order: 18.02.2025

Present: Appellant/ Claimant Sunil Kumar S/o Bhagwan Das

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

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 13.03.2024 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. 337, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. The Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the Appellant/ Claimant was found to have been using the said Jhuggi bearing No. 337 exclusively for commercial purposes and accordingly the present Appellant/ Claimant does

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not fulfill the eligibility criteria as per the policy guidelines issued by DDA and consequently the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing "Survey Number 33/1211" dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 16-S of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 05.09.2024. The Appellant/Claimant has also tendered documents, Annexure-A & Annexure-J, in support of his claim. DDA has furnished the survey records.

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

6. It is the admitted fact that as per survey records, the Appellant/ Claimant's Jhuggi bearing No. 337 was found to have been used for commercial purposes and accordingly he was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 13.03.2024 whereby the reasons for rejection is mentioned to be **"Office Commercial"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. 337 was rightly found to have been exclusively used for commercial purposes on the cutoff date of 01.01.2015 and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

8. 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

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position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

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

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

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

- Passport.

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

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

10. As already pointed out above, condition contained in Clause 1 (8) & (9) of Part–B of DDA policy runs as under:

"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

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

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11. Thus the policy guideline issued by DDA stipulates that the commercial use of Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit. In the light of our discussion above, we shall appraise the material placed on file to determines as to whether the Appellant/ Claimant is entitled to claim allotment against the said Jhuggi No. 337, in Shalimar Bagh as per the policy guidelines issued by DDA.

12. Firstly, we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was using the Jhuggi No. 337, Shalimar Bagh, exclusively for commercial purposes or it was put to mixed use for residential-cum-commercial purposes. Secondly, in the later part of this order we shall appraise the material placed on file to determines 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 possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

13. Now we shall appraise the material placed on file to determines as to whether the Appellant/ Claimant was using the Jhuggi No. 337, Shalimar Bagh, exclusively for commercial purposes or or it was put to mixed use for residential-cum-commercial purposes.

14. The statement of the Appellant/Claimant Sunil has been recorded before us on 05.09.2024, wherein he has stated that his parents, Bhagwan Das & Shrimati, are having four sons, Sunil, Shalender, Amit & Ankit and four daughters, Gianwati, Asha, Arti & Jyoti. Out of whom, Amit, Ankit & Jyoti are unmarried whereas all the remaining are married. Bhagwan Das had expired about two years ago. Shrimati along with her three unmarried children, Amit, Ankit & Jyoti as well as with the family of Shalender is living in her native village Jithma, district Unnao, Uttar Pradesh. Gianwati is married with Ram Swarup and Arti is married with Pappu and they are living in their respective matrimonial homes in Unnao, Uttar Pradesh whereas Asha is married with Sanjeev and she is living in her matrimonial home in Lucknow, Uttar Pradesh. Shalender is married with Rani and having two children and they are living in their native village in Unnao, Uttar Pradesh. Sunil

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(Appellant/Claimant) is married with Rannu and having three children, Prince, Arushi & Rishav.

15. The Appellant/Claimant has stated that Sundara is his Bua (aunty) from his family side even though not directly related to him. Sundara along with her husband Gokul Prasad is living in Jhuggi No. 198 Shalimar Bagh and regarding that DDA has made allotment in favour of Sundara. The Appellant/Claimant had come to live with Sundara in her Jhuggi No. 198 in the year 2008 and he continued to live with them up to the year 2012. The Appellant/Claimant has stated that he was married with Rannu in the year 2010 and accordingly, after the marriage the couple had started to live with the family of Sundara in her Jhuggi No. 198 in Shalimar Bagh. Further he had lived with the family of Sundara in her Jhuggi No. 198 in Shalimar Bagh from 2008 to 2012 but in the year 2012 he along with his wife had shifted to Jhuggi no. 337, Shalimar Bagh belonging to one Vinod Pradhan.

16. Thus the admission of the Appellant/Claimant shows that he had lived with the family of his distantly related aunt Sundara in her Jhuggi No. 198, Shalimar Bagh from the years 2008 to 2012 but in the year 2012 he along with his wife had shifted to Jhuggi no. 337, Shalimar Bagh belonging to one Vinod Pradhan. This shows that the Jhuggi no. 337, Shalimar Bagh is belonging to one Vinod Pradhan and not to the present Appellant/Claimant. However, the said Vinod Pradhan has not sought allotment from DDA against the Jhuggi no. 337, Shalimar Bagh but it is the present Appellant/Claimant, who has sought alternative allotment from DDA against the said Jhuggi no. 337, Shalimar Bagh of that Vinod Pradhan. Now it is to be seen as to why the said Vinod Pradhan has not sought allotment from DDA against the Jhuggi no. 337, Shalimar Bagh and further as to in what capacity the Appellant/Claimant had come to occupy the said the Jhuggi no. 337, Shalimar Bagh in the year 2012 and as to whether the Appellant/ Claimant is entitled to claim allotment against the said Jhuggi No. 337, Shalimar Bagh as per the policy guidelines issued by DDA.

17. The Appellant/Claimant has sated that he has sought allotment from DDA against the said Jhuggi No. 337 but his claim has been rejected by the Eligibility Determination Committee on the ground that the said Jhuggi No. 337 has been found to have been used for office "Commercial Purpose" in spite of the fact that he along with his family has been living in the said Jhuggi No. 337 since 2012 but it has been used occasionally as office by Vinod Pradhan and accordingly, the Jhuggi No. 337 has been used for residential purpose and not

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for commercial purpose and further, he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal NO. 16-S/2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-J in support of his claim and prayed that DDA be directed to make allotment in his favour.

18. The Appellant/Claimant has stated that one Vinod Pradhan is having two Jhuggis in Shalimar Bagh. Both the Jhuggis are in separate galis. The Present Jhuggi No. 337 regarding which the Appellant/Claimant has been claiming allotment from DDA has been used by the said Vinod Pradhan for running of his office whereas another Jhuggi, which is situated in another gali, has been used by Vinod Pradhan for his residential purpose. The said Vinod Pradha along with his family is living in one of the Jhuggis whereas the second Jhuggi bearing number 337 was used by him for running his office. The Appellant/Claimant has stated that he does not know the name of father of Vinod Pradhan as well as the number of Jhuggi in which he was living but he has stated that DDA has made allotment in favour of Jhuggi in which Vinod Pradhan is living.

19. It is pointed out that the Appellant/Claimant has not disclosed the number of the Jhuggi, which has been used by the said Vinod Pradhan for his residential purposes and further against which DDA has made alternative allotment in his favour. This shows that Appellant/Claimant has not come to us with clean hands but he has concealed material facts. However, the fact remains that the statement of the Appellant/Claimant shows that Vinod Pradhan is having two Jhuggis in Shalimar Bagh. One of the Jhuggi, whose number is not disclosed by the Appellant/Claimant, has been used by the said Vinod Pradhan for his residential purposes and against that Jhuggi DDA has made allotment in favour of the said Vinod Pradhan. However, the second Jhuggi of the said Vinod Pradhan is bearing Jhuggi No. 337, Shalimar Bagh and from that Jhuggi the said Vinod Pradhan has been running his office. Further, the said Vinod Pradhan has not sought allotment from DDA against the second Jhuggi No. 337, Shalimar Bagh but it is the present Appellant/Claimant, who has come forward to claim allotment from DDA against the second Jhuggi No. 337, Shalimar Bagh even though it belongs to the said Vinod Pradhan and he has been running his office from the said Jhuggi. This further creates doubt & suspicion as far as the genuineness & veracity of the claim of the present Appellant/Claimant is concerned.

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20. The Appellant/Claimant has stated that the said Vinod Pradhan is running his office from the present Jhuggi No. 337 Shalimar Bagh and further the Appellant/Claimant was employed by the said Vinod Pradhan as caretaker for keeping & maintaining the said Jhuggi No. 337. The Appellant/Claimant has stated that the said Vinod Pradhan used to come quite often every 4-5 days to his office, which he was running from Jhuggi No. 337 and his duty was to maintain & keep the said Jhuggi clean.

21. The Appellant/Claimant has stated that he had started living in Jhuggi No. 337 with his wife in the year 2012 and as & when Vinod Pradhan used to come to hold his office from Jhuggi No. 337 then during that period the Appellant/Claimant along with his family used to move out temporarily. The Appellant/Claimant has stated that he has not been paying rent to Vinod Pradhan because he was looking after and maintaining the said Jhuggi No. 337 as caretaker. Moreover, the Appellant/Claimant has nowhere stated that he has made this arrangement with the consent of the owner of the Jhuggi and this accordingly shows that the owner Vinod Pradhan even may not be knowing that the Appellant/Claimant along with his wife is living there because the Appellant/Claimant was acting in a clandestine manner and he used to vacate the Jhuggi as & when Vinod Pradhan used to come to hold his office from Jhuggi No. 337 especially when the said Vinod Pradhan was admittedly used to come after every 4-5 days to his office. But the Appellant/Claimant has categorically stated that he was employed by the said Vinod Pradhan as caretaker for maintaining & keeping the said Jhuggi No. 337 clean from where the said Vinod Pradhan was running his office. Here it is pertinent to point out that the fact of the caretaker along with his wife living in the Jhuggi, which is primarily used as office by its owner Vinod Pradhan does not change its nature to residential.

22. It is pointed out that the Appellant/Claimant has categorically stated that from 2008 to 2012, he was living in Jhuggi No. 198 in Shalimar Bagh with his aunt Sundara and in the year 2012 he had shifted to Jhuggi No. 337, which belongs to Vinod Pradhan. The admission of the Appellant/Claimant shows that he has allegedly shifted to Jhuggi No. 337 Shalimar Bagh in the year 2012 and accordingly, getting the Voter ID Card No. JFK1161231 (Annexure-A) issued in the year 2008 creates doubt and suspicion and it is contrary to the stand taken by the Appellant/Claimant as to when he had come to occupy the Jhuggi No. 337.

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23. It is also pointed out that the Appellant/Claimant has specifically admitted that Jhuggi No. 337, Shalimar Bagh belongs to Vinod Pradhan and it has been used by him as office and the services of the Appellant/Claimant was engaged by Vinod Pradhan as caretaker to look after and maintain the said Jhuggi No. 337. Vinod Pradhan used to come frequently after 4-5 days to hold his office. There is no doubt that services of the Appellant/Claimant was engaged by Vinod Pradhan as caretaker to look after and maintain his Jhuggi No. 337 and since Vinod Pradhan used to come after 4-5 days to hold his office and accordingly, during this period the Appellant/Claimant along with his family used to go out for the period the said Vinod Pradhan used to hold office.

24. It is also pertinent to point out that the Appellant/Claimant has not disclosed the name of the father of Vinod Pradhan as well as the number of the second Jhuggi regarding which DDA has allegedly made allotment in favour of Vinod Pradhan and this shows that the Appellant/Claimant has intentionally concealed the material facts in order to cover up the allotment made by DDA to said Vinod Pradhan. The fact remains that Jhuggi No. 337 belongs to said Vinod Pradhan where he is running his office. Merely because the Appellant/Claimant with his family also used to live in this office does not change its nature from commercial to residential. Furthermore, the Appellant/Claimant has not stated that he along with his family is living separately and independently in Jhuggi No. 337 regarding which he is claiming allotment from DDA but he has been occupying the said Jhuggi as caretaker under the said Vinod Pradhan.

25. The Appellant/Claimant has admittedly not paying any rent to Vinod Pradhan because he was rendering his service as caretaker to Vinod Pradhan in looking after and maintaining his office. Furthermore, the admission of the Appellant/Claimant shows that the said Vinod Pradhan is having two Jhuggies in Shalimar Bagh, which are situated in two different galis and further, DDA has made allotment in favour of Vinod Pradhan against on of the Jhuggi in which he is allegedly living with his family and it seems that Vinod Pradhan tried in a clandestine manner had tried to grab the second allotment from DDA against the Jhuggi No. 337, which has been used by him as his office by conspiring with the Appellant/Claimant by concocting a wrong & false story that the Appellant/Claimant has been using the said Jhuggi for residential purposes. The Appellant/Claimant has not claimed allotment from DDA in his individual capacity but he has claimed allotment against

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Jhuggi No. 337 from DDA under Vinod Pradhan being his caretaker. Since DDA has made allotment in favour of Vinod Pradhan against one of his Jhuggi in Shalimar Bagh, therefore, the Appellant/Claimant neither in his individual capacity nor in the capacity of caretaker under the said Vinod Pradhan is entitled to claim allotment from DDA against the said Jhuggi No. 337 because this Jhuggi No. 337 belongs to the said Vinod Pradhan and he has already got allotment from DDA against another Jhuggi used by him for his residential purposes and accordingly second allotment to the said Vinod Pradhan is not permissible under the garb of he being instrumental in getting the claim filed by the present Appellant/Claimant and further the fact cannot be lost sight that the said Jhuggi No. 337 is used exclusively for commercial purposes as office by the said Vinod Pradhan.

26. As already pointed out above, condition contained in Clause 1 (8) & (9) of Part–B of DDA policy runs as under: -

> *"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."*
>
> *"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."*

27. The material placed on file shows that the EDC has rightly found that on the cutoff date of 01.01.2015 the Jhuggi No. 337, Shalimar Bagh was exclusively used for commercial purposes and accordingly, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

28. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters also as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before

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01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. 337, Shalimar Bagh as per the policy guidelines issued by DDA.

29. The Appellant/Claimant has tendered his Voter ID Card No. JFK 1161231 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-G), Voter List of the year 2013 (Annexure-H), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2015 (Annexure-J) in support of his claim.

30. It is pointed out that Voter ID Card No. JFK 1161231 (Annexure-A) of the Appellant/Claimant has been issued on 18.10.2008, much prior to the cutoff date 014.01.2015. The Appellant/Claimant has tendered his Aadhar Card No. 4906 8658 1150 (Annexure-B), which has been issued on 25.01.2020, much after the cutoff date 01.01.2015. Further the name of the Appellant/Claimant appears at Sl. No. 367 in the Voter List of the year 2012 (Annexure-G), at Sl. No. 367 in the Voter List of the year 2013 (Annexure-H), at Sl. No. 439 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 502 in the Voter List of the year 2015 (Annexure-J). Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further, his name also appears in the Voter Lists of the year 2012 to 2015 but it is pointed out that all these documents are not material to determine the eligibility of the the Appellant/Claimant because as per our discussion above on the cutoff date of 01.01.2015 the Jhuggi No. 337, Shalimar Bagh was exclusively used for commercial purposes and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

31. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of his wife Rannu and Ration Card (Annexure-F) in support of his claim.

32. It is pointed out that the Appellant/Claimant has tendered Aadhar Card No. 6885 8741 6371 (Annexure-D) of his wife Rannu, which has been issued on 25.01.2020. Furthermore, the Appellant/Claimant has stated that he was married with Rannu in the year 2010 and since 2012, he is living with his wife Rannu in Jhuggi No. 337 Shalimar Bagh regarding which he is claiming allotment from DDA but Voter ID Card of his wife Rannu has not been placed on file to substantiate his claim that he along with his wife Rannu and children is living in the said Jhuggi No. 337 Shalimar Bagh. The Appellant/Claimant has tendered Ration Card

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No. 077004810678 (Annexure-F), which has been issued in favour of his wife Rannu but the date of issuance is not mentioned and further, in Ration Card only the name of his wife Rannu is mentioned but conspicuously the name of the Appellant/Claimant as well as children is missing and this creates doubt and suspicion. 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 on the cutoff date of 01.01.2015 the Jhuggi No. 337, Shalimar Bagh was exclusively used for commercial purposes and accordingly, the Appellant/Claimant is not entitled to get alternative allotment as per the policy guidelines issued by DDA.

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

34. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above on the cutoff date of 01.01.2015 the Jhuggi No. 337, Shalimar Bagh was exclusively used for commercial purposes and accordingly he is not entitled to get alternative allotment against Jhuggi No. 337, Shalimar Bagh as per the policy guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim

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on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-J, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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 or illegality in the impugned order bearing "Survey Number 33/1211" dated 13.03.2024. Hence the same is upheld. Consequently, the present appeal No. 16-S of 2024 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 SHALIMAR BAGH

Appeal No: 18-S of 2024

Date of Institution: 30.08.2024

Date of Order: 18.02.2025

Present: Appellant/ Claimant Harpal S/o Bagone

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 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. T-50, BG-1 Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. T-50, BG-1 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing "Survey Number 62/1219

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dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 18-S of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 11.11.2024 The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records the Jhuggi bearing No. T-50, BG-1 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 13.03.2024 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. T-50, BG-1 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Harpal has been recorded before us on 11.11.2024 wherein he has stated that he is married with Bimla and having two sons, Manish & Dinesh and two daughters, Sonu & Laxmi. All the children except Manish are married. Sonu is

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married with Santu and she is living in her matrimonial home in Kanpur, Uttar Pradesh. Laxmi is married with Chintu and she is living in her matrimonial home in Shalimar Bagh, Delhi. Dinesh is married with Uma and having two children.

9. The Appellant/Claimant has stated that his family is having a single storey Jhuggi No. T-50, BG-1, Shalimar Bagh and he along with his wife Bimla and unmarried son Manish as well as the family of son Dinesh is living in the said single storey Jhuggi No. T-50, BG-1. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. T-50, BG-1 but his claim has been rejected by the Eligibility Determination committee on the ground that his Voter ID Card could not be verified in spite of the fact that he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 18-S of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-S in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. The Appellant/Claimant has tendered his Photograph along with his family (Annexure-N) in which he is seen standing in front of Jhuggi No. T-50, BG-1 regarding which he is claiming allotment from DDA.

11. The Appellant/Claimant has also tendered Pen Drive containing the video clip of single storey Jhuggi No. T-50, BG-1 and it has been saved in the computer where the video clip prepared by the survey team of DDA has been saved and further the video clip contained in the pen drive was also played before the Appellant/Claimant when his statement was recorded before us on 11.11.2024 and in that the said Jhuggi No. T-50, BG-1 is clearly seen to be a single storey structure and having roof made with wooden plank & tin sheets and further front wall of the said Jhuggi No. T-50, BG-1 bears name plate on which "**HARPAL JH No. T-50 BLOCK-BG-1 SHALIMAR BAGH**" is seen to have been written.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records, about the existence of the single storey Jhuggi No. T-50, BG-1, Shalimar Bagh. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the single storey Jhuggi No. T-50, BG-1, was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

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13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No T-50, BG-1, was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. T-50, BG-1, Shalimar Bagh 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-S in support of his claim and prayed that DDA be directed to make allotment in his favour.

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

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

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

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

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case

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(supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

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

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

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

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

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

39. It is pointed out that we have already held that the single storey Jhuggi No T-50, BG-1 was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. T-50, BG-1 Shalimar Bagh as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), the Letter VC/AERO/AC-14/Misc/2024/778 dated 04.11.2024 (Annexure-O) of AERO, AC-14, Shalimar Bagh, Voter List of the year 2019 (Annexure-P), Voter List of the year 2021 (Annexure-Q) and Voter List of the year 2025 (Annexure-R) in support of his claim.

42. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card No. DL/03/019/280280 (Annexure-A) of the Appellant/Claimant has been issued on 12.11.1997, much prior to the cutoff date 01.01.2015. However, the Letter VC/AERO/AC-14/Misc/2024/778 dated 04.11.2024 (Annexure-O) of AERO, AC-14, Shalimar Bagh shows that the Voter ID Card No. DL/03/019/280280 (Annexure-A) is not a valid document as per the records of the Election

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Commission and further no record pertaining to this Voter ID Card No. DL/03/019/280280 (Annexure-A) is available with the Election Commission. This shows that Voter ID Card No. DL/03/019/280280 (Annexure-A) is not a valid document and accordingly it shows that the Appellant/Claimant has tried to use forged & fabricated document to grab allotment from DDA by hook or crook.

43. It is pointed out that the second Voter ID Card No. JFK 1970465 (Annexure-B) of the Appellant/Claimant has been issued on 12.01.2018, much after the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of the years 2012 to 2015 does not arise. The Appellant/Claimant has tendered his Aadhar Card No. 9721 5013 4361 (Annexure-C) and it has been issued on 26.12.2012. The Letter VC/AERO/AC-14/Misc/2024/778 dated 04.11.2024 (Annexure-O) of AERO, AC-14, Shalimar Bagh shows that Voter ID Card No. JFK 1970465 (Annexure-B) of the Appellant/Claimant is a valid document and it is reflected in the Voter List of the years from 2019 to 2024. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 227 in the Voter List of the year 2019 (Annexure-P), at Sl. No. 266 in the Voter List of the year 2021 (Annexure-Q) and at Sl. No. 267 in the Voter List of the year 2025 (Annexure-R) and in all these Voter Lists (Annexure-P to Annexure-R) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JFK 1970465. However, Voter ID Card No. JFK 1970465 (Annexure-B) as well as Voter Lists (Annexure-P to Annexure-R) are not relevant to determine the eligibility of the Appellant/Claimant because all these documents pertain to post cutoff date 01.01.2015.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. T-50, BG-1 Shalimar Bagh regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has tendered Identity Card (Annexure-E), Voter ID Card (Annexure-F & Annexure-G) & Aadhar Card (Annexure-H) of his wife Bimla, the Passbook of Bank of Maharashtra (Annexure-I), the Passbook of Indian Overseas Bank (Annexure-J), the Electricity Bill (Annexure-K) and Ration Cards (Annexure- L & Annexure-M) in support of his claim.

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46. It is pointed out that the Identity Card (Annexure-E) has been issued by Delhi Administration on 13.03.1990. Furthermore, the Appellant/Claimant has tendered two Voter ID Card (Annexure-F & Annexure-G) of his wife Bimla. The first Voter ID Card No. DL/03/019/280207 (Annexure-F) of his wife Bimla has been issued on 12.11.1997 but it is pointed out that no Voter List has been tendered to show that his wife Bimla had used her Voter ID Card No. DL/03/019/280207 to cast vote in any of the election and more particularly in the years from 2012 to 2015. The second Voter ID Card No. JFK 1970473 (Annexure-G) of his wife Bimla has been issued on 12.01.2018, much after the cutoff date 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the year 2012 to 2015 does not arise. The material placed on file shows that neither the Appellant/Claimant nor his wife Bimla was having a valid Voter ID Card on the cutoff date 01.01.2015 and further, their names also do not appear in the Voter List of the year from 2012 to 2015.The Aadhar Card No. 7590 9976 5940 (Annexure-H) of his wife Bimla has been issued on 26.02.2012. The Passbook of Bank of Maharashtra (Annexure-I) shows that his wife Bimla had opened the account on 11.12.2013 and the Passbook of Indian Overseas Bank (Annexure-J) shows that his wife Bimla had opened the account on 15.03.2007. The Electricity Bill (Annexure-K) shows that the Appellant/Claimant had taken electricity connection on 30.03.2007. It is pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure- L & Annexure-M). The first Ration Card No. BPL19070019 (Annexure-L) has been issued in favour of the Appellant/Claimant on 29.10.2003. The second Ration Card No. 077004297232 (Annexure-M) has been issued in favour of his wife Bimla and the name of the 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 Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. T-50, BG-1 Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down

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

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. T-50, BG-1 Shalimar Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-S, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing "Survey Number 62/1219

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dated 13.03.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/RELOCATION OF JJ DWELLERS OF GOLDEN PARK, RAM PURA, DELHI

Appeal No: 60-GP/2024

Date of Institution: 04.11.2024

Date of Order: 18.02.2025

Present: Appellant/ Claimant Krishna W/o Sunil Kumar

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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. 442, Golden Park, Ram Pura Delhi. A Public Notice by DDA was pasted in the Golden Park to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. 442 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Golden Park, duly communicated its order bearing No. F01/IEL/ISR/PMAY/DDA/250 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 60-GP/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 03.12.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's double storey Jhuggi bearing No. 442, Golden Park, Ram Pura Delhi was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"Voter Card Not *Verified*"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the double storey Jhuggi No. 442, Golden Park, Ram Pura Delhi as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Krishna has been recorded before us on 03.12.2024 wherein she has stated that she is married with Sunil Kumar and having one son; Vicky and four daughters; Kajal, Chaya, Kamma & Bharti. All the children are married. Vicky is married with Renu and having three children and they are living in Raghubir Nagar, Delhi. Kajal is married with Vijay and she is living in her matrimonial home in Rampura, Delhi. Chaya is married with Ajay and she is living with her parents in Golden Park, Ram Pura, Delhi. Kammo is married with Kanhaiya and she is living in her matrimonial home in Bhiwani, Haryana. Bharti is married with Bharat and she is living in her matrimonial home in Karol Bagh, Delhi.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. 442 in Golden Park, Ram Pura and it comprises of one room on each floor and a bamboo ladder has been placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that she along with her husband Sunil Kumar and the family of her daughter, Chaya, is living in the said double story Jhuggi No. 442, Golden Park, Ram Pura, Delhi. The Appellant/Claimant along with her husband Sunil Kumar is living on the ground floor whereas her daughter, Chaya, is living on the first floor of the said double storey Jhuggi No. 442. The Appellant/Claimant has sought alternative allotment from DDA against the said double story Jhuggi No. 442 but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified in spite of the fact that she is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 60-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has tendered the survey records along with two video clips and the same were played before the Appellant/Claimant when her statement was recorded before us on 03.12.2024 wherein she has stated that the first video clip pertains to the Jhuggi No. 442 in which from outside the Jhuggi No. 442 is clearly seen to be a double storey pucca structure and further, a bamboo ladder placed outside in the gali and used for going to the upper floor is also seen and further, the Appellant/Claimant is seen and getting the survey conducted and further, the Appellant/Claimant is seen holding a slate in her hand on which **"442 KRISHNA G+1"** is

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seen to have been written. Moreover, a nameplate is also affixed on the front wall of the said Jhuggi on which **"KRISHNA JH NO. 442 GOLDEN PARK RAMPURA DL-35"** is seen to have been written. The second video pertains to the first floor of the said Jhuggi in which one room on the first floor is also seen and in that her daughter, Chaya, is also seen on the first floor. The Appellant/Claimant has also categorically stated that she had claimed allotment from DDA against the double storey, which is single dwelling unit.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. 442 on the cutoff date 01.01.2015 and the Appellant/Claimant using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. 442 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi No. 442, which has been found to be single dwelling unit.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the double storey Jhuggi No. 442 as per the policy guidelines issued by DDA.

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

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to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Accordingly, there is no illegality in the impugned rejection order bearing No. F01/IEL/ISR/PMAY/DDA/250 dated 11.09.2024.

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

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

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Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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

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

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

18. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

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

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40. It is pointed out that we have already held that the double storey Jhuggi No. 442 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the double storey Jhuggi No. 442, Golden Park, Ram Pura, Delhi as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered her Voter ID Card No. URU 2336337 (Annexure-A) & Aadhar Card (Annexure-B) in support of her claim.

43. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A) bearing number URU 2336337 and it has been issued on 25.11.2023, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the year 2012 to 2015 does not arise. Further, her Aadhar Card (Annexure-B) is bearing No. 6019 6879 3491 but the date of issuance is not mentioned in this document.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.442, Golden Park, Ram Pura, Delhi regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has tendered her e-SHRAM Card (Annexure-C) as well as Voter ID

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Card (Annexure-D) & Aadhar Card (Annexure-E) of her husband Sunil Kumar as well as Electricity Bill (Annexure-F) in support of her claim.

46. It is pointed out that the e-SHRAM Card (Annexure-C) has been issued in favour of the Appellant/Claimant but the date of issuance is not mentioned therein. The Voter ID Card No. URU 2336329 (Annexure-D) of her husband Sunil Kumar Gupta has been issued on 07.03.2024, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the year 2012 to 2015 does not arise. The Aadhar Card (Annexure-E) of Sunil Kumar is bearing No. 5598 2057 1018 and it has been issued on 03.03.2013. The material placed on file accordingly shows that neither the Appellant/Claimant nor her husband Sunil Kumar was having a valid Voter ID Card issued on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 442, Golden Park, Ram Pura, Delhi regarding which the Appellant/Claimant is claiming alternative allotment from DDA and further, their names also do not appear in any of the Voter Lists and more particularly in the years from 2012 to 2015. Further, the Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken the electricity connection on 17.08.2016, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 442, Golden Park, Ram Pura, Delhi regarding which the Appellant/Claimant is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 442, Golden Park, Ram Pura, Delhi regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. F01/IEL/ISR/PMAY/DDA/250 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

(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 KALI BARI, RML, DELHI

Appeal No: 06-KB/2024

Date of Institution: 30.08.2024

Date of Order: 18.02.2025

Present: Appellant/ Claimant Pushpa W/o Surender Kumar

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 25.07.2024 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-33/R-10, Kali Bari, RML, Delhi. A Public Notice by DDA was pasted in the Kali Bari to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Kali Bari. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice on *01.12.2023* was also issued thereby intimating the dwellers about organizing of a camp by DDA *from 26.12.2023 to 29.12.2023* at DDA site office at Kali Bari, RML Hospital, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-33/R-10, Kali Bari, RML, Delhi was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present

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Appellant/ Claimant for alternative allotment and the Nodal Officer, Kali Bari, duly communicated its order bearing No. F2(ISR)RML/41/2023 dated 25.07.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 06-KB/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 25.11.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z15, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA has been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 25.11.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's single storey Jhuggi bearing No. C-33/R-10, Kali Bari, RML, Delhi was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 25.07.2024 whereby the reasons for rejection is mentioned to be **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine

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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 the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and further whether she is entitled to claim allotment against the single storey Jhuggi No. C-33/R-10 Kali Bari, RML, Delhi as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Pushpa has been recorded before us on 25.11.2024 wherein she has stated that she is married with Surender Kumar and having three children Sunil, Ravi and Pinky. All the children are unmarried.

9. The Appellant/Claimant has stated that she was having a single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, which was having a roof made with asbestos sheet. The Appellant/Claimant along with her husband Surender Kumar and all the three children, Sunil, Ravi & Pinky was living in the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. C-33/R-10 but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and her name does not appear in the voter list of the year of survey in spite of the fact that she was having all the requisite document as per the policy guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 06-KB of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has stated that Jhuggi No. C-33/R-10 regarding which she has been claiming allotment from DDA has been demolished and now she has been living on rent in Shadipur, Delhi. The Appellant/Claimant has also tendered document Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z15, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 25.11.2024 wherein he has stated that the Appellant/Claimant, Pushpa, has sought alternative allotment form DDA against the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi but her claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and her name does not appear in the voter list of

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the year of survey. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z15) whereby the reasons for rejection is mentioned to be **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"**. Aggrieved by the same, the Appeal No. 06-KB/2024 has been filed by the present Appellant/ Claimant.

EXISTENCE OF SINGLE STOREY JHUGGI NO. C-33/R-10, KALI BARI, RML, DELHI

11. The material placed on file shows that the Appellant/Claimant Pushpa has sought alternative allotment form DDA against the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi but her claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name also does not appear in the voter list of the year of survey. The Rejection order was communicated to him by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z15) whereby the reasons for rejection is mentioned to be **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** but the existence of the Jhuggi of the Appellant/Claimant is not disputed by DDA and aggrieved by the same she has filed the present Appeal No. 06-KB/2024 before the Appellate Authority for redressal.

12. We shall appraise the material placed on file to determine whether the Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, which is a single dwelling unit, and then in later part of this order we shall examine whether the Appellant/Claimant is having a valid Voter ID Card and other requisite documents as per the policy guidelines issued by DDA.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 13.02.2024

13. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

14. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim

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of the Appellant/ Claimant was rejected by EDC on 13.02.2024 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F2(ISR)RML/41/2023 dated 25.07.2024 (Annexure-Z15) to the present Appellant/Claimant and the EDC Note dated 13.02.2024 (Annexure-Z14) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 13.02.2024 (Annexure-Z14)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 01.12.2023 for organising a camp from 26.12.2023 to 29.12.2023 at DDA site office at RML Hospital, New Delhi. wherein to the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, ***the applicant jhuggi existed on Ground/Upper floor*** *and the policy guidelines for alternate allotment in cases of Ground floor is as under:*

2. As per policy guidelines, Part –B ***The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under****: - The name of JJ dwellers must appear in at least one of the voter lists of the year's 2012, 2013, 2014, 2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However,* ***name of the applicant appears in voter lists of year 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of the survey, the voter card submitted by the applicant not found valid****.*

3. The applicant/claimant has failed to submit a valid voter ID. card; Hence; the applicant/claimant does not fulfill the eligibility criteria. ***The applicant/claimant is found ineligible for alternative allotment.****"*

(Remarks - The grammar & formation of the sentences are ignored by this Appellate Authority in reproducing the EDC Note dated 13.02.2024*)*

15. As already pointed out above, the Appellant/Claimant has stated that she along with her husband Surender Kumar and all the three children, Sunil, Ravi & Pinky, was living in the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. C-33/R-10 but her claim has been rejected by the Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and her name does not appear in the voter list of the year of survey in spite of the fact that she was having all the requisite document as per the policy

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guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 06-KB of 2024 before the Appellate Authority for redressal.

16. Now we shall appraise the other material, namely, survey records/video clips tendered on file by DDA.

SURVEY RECORDS & VIDEOCLIP

17. DDA has furnished survey records along with one video clip of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi. It is pointed out that the Appellant/Claimant has tendered the Survey Performa (Annexure-Z13) in support of her claim. The bare perusal of the same shows that the survey team had found that the Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi of the Appellant/Claimant was found to be single storey structure and it was found to be used for residential purposes because *in* ***"Column No. 4 of Jhuggi Status,*** *the* Jhuggi No. C-33/R-10 is mentioned to be ***"Ground"*** *and in* ***"Column No. 5 of Jhuggi Type,*** *the* Jhuggi No. C-33/R-10 is mentioned to be ***"Residential"***. This accordingly supports the claim of the Appellant/Claimant that Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi was a single structure structure and it was used by her for residential purposes.

18. Furthermore, the Appellant/Claimant had made representation to DDA to seek allotment from DDA against Jhuggi No. C-33/R-10 and had annexed her Voter ID Card No. SJE 0176586 dated 18.06.2016, Aadhar Card No. 8036 9285 6185 and the Ration Card No. 077004023975 have been annexed with the Survey Performa (Annexure-Z13), thereby showing that the Appellant/Claimant had not concealed any facts and furthermore, subsequently the Appellant/Claimant has tendered her two Voter ID Cards, which are bearing same number, namely, SJE 0176586 (the first has been issued 18.10.2008 (Annexure-A) & the second on 18.06.2016 (Annexure-B)) as well as her Aadhar Card No. 8036 9285 6185 (Annexure-D) and the Ration Card No. 077004023975 (Annexure-X) in support of her claim when her statement was recorded before us on 25.11.2024 and the bare perusal of these documents shows that all the documents have been issued on the address of the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which she has claimed allotment from DDA. This further shows that DDA has not disputed the identity of the single storey Jhuggi regarding which the Appellant/Claimant has been claiming allotment from DDA.

19. DDA has furnished the survey records along with one video clip of Jhuggi No. C-33/R-10, Kali

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Bari, RML, Delhi. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 25.11.2024 wherein the Appellant/Claimant has stated that the video clip pertains to the Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi in which from outside Jhuggi No. C-33/R-10 is clearly seen to be a pucca single storey structure and having roof made with asbestos sheet and further the Appellant/Claimant is seen and getting the survey conducted and furthermore, the Appellant/Claimant is seen holding a slate in her hand on which **"Sr. No. 43 Survey No. 41 Jh. No. C-33/R-10 PUSHPA G.F"** is seen to have been written.

20. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, which were prepared by the survey team of DDA, and also played before him when his statement was recorded before us on 25.11.2024 wherein he has stated that the video clip pertains to the Jhuggi No. C-33/R-10 in which from outside the said Jhuggi is clearly seen to be a pucca single storey structure and having roof made with asbestos sheet and further the Appellant/Claimant is seen and getting the survey conducted and furthermore, the Appellant/Claimant is seen holding a slate in her hand on which **"Sr. No. 43 Survey No.- 41 Jh. No. C-33/R-10 PUSHPA-G.F"** is seen to have been written.

21. It is pertinent to point out that as per Survey Performa (Annexure-Z13) the survey was got conducted by the Appellant/Claimant of the said Jhuggi C-33/R-10, Kali Bari, RML, Delhi and further the documents tendered in support of the claim of the Appellant/Claimant and the details of the family members is mentioned therein. Furthermore, the Appellant/Claimant had made representation to DDA to seek allotment from DDA against Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi and had annexed her Voter ID Card No. SJE 0176586 dated 18.06.2016, Aadhar Card No. 8036 9285 6185 and the Ration Card No. 077004023975, thereby showing that the Appellant/Claimant had not concealed any facts and furthermore, subsequently the Appellant/Claimant has tendered her two Voter ID Cards, which are bearing same number, namely, SJE 0176586 (the first has been issued 18.10.2008 (Annexure-A) & the second on 18.06.2016 (Annexure-B)) as well as her Aadhar Card No. 8036 9285 6185 (Annexure-D) and the Ration Card No. 077004023975 (Annexure-X) in support of her claim when her statement was recorded before us on 25.11.2024 and the bare perusal of these documents shows that all the documents have been issued on the address of the single storey Jhuggi No. C-33/R-

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10, Kali Bari, RML, Delhi regarding which she has claimed allotment from DDA. The material placed on file also shows that DDA has not disputed the identity of the single storey Jhuggi regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, in the video clip prepared by the survey team of DDA, the Appellant/Claimant is seen and getting the survey conducted of her Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi in which from outside Jhuggi No. C-33/R-10 is clearly seen to be a pucca single storey structure and having roof made with asbestos sheet and furthermore, the Appellant/Claimant is seen holding a slate in her hand on which **"Sr. No. 43 Survey No. 41 Jh. No. C-33/R-10 PUSHPA G.F"** is seen to have been written. This corroborates the statement of the Appellant/Claimant that Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi is a single storey structure, which was used by the Appellant/Claimant & her family for residential purposes. Furthermore, on the cutoff date of 01.01.2015 the Appellant/Claimant along with his family was living separately & independently in the said single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, which is single dwelling unit, and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee on the grounds **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** but the existence of the Jhuggi of the Appellant/Claimant is not disputed by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 06-KB of 2024 before the Appellate Authority for redressal.

22. The survey records placed on file shows that the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA but her claim was rejected by EDC on 13.02.2024 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z15) whereby two reasons for rejection are mentioned to be **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid".** However, the grounds of rejection seem to be wrongly & erroneously

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mentioned in the Rejection Order dated 25.07.2024 (Annexure-Z15) because it is pertinent to point that the remarks given in the EDC Note dated dated 25.07.2024 (Annexure-Z15) are self-contradictory in nature because on the one hand it is mentioned that the Voter ID Card of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. Accordingly, we shall appraise the material placed on file to determine whether the Voter ID Card of the Appellant/ Claimant is a valid document or not in the later part of this order.

23. As per our discussion above, the bare perusal of the EDC Note dated 13.02.2024 (Annexure-Z14) shows that it is no where disputed by DDA as far as the existence of the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi of the Appellant/ Claimant and the Appellant/ Claimant along with her family was living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified inspite of the fact that her name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit comprising of the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi except that she was allegedly not having all the requisite documents.

24. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the single storey Jhuggi No. C-33/R-10, was in existence in Kali Bari, RML, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was living in the said single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, which is a single dwelling unit, and

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the same has been used by her for residential purposes.

25. Accordingly, we have no hesitation in holding that the said single storey Jhuggi No. C-33/R-10 was in existence in Kali Bari, RML, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was living in the said single storey Jhuggi No. C-33/R-10 and further the Appellant/Claimant had been using the same for residential purposes on the cutoff date of 01.01.2015 till it was demolished in the year 2024 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit.

GROUND OF REJECTION ON THE GROUND OF "VOTER CARD NOT VERIFIED & NAME NOT APPEARING IN THE VOTER LIST OF THE YEAR OF SURVEY"

26. Moreover, by taking holistic approach, we shall now appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi as per the policy guidelines issued by DDA.

27. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z15, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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

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

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

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

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book,

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Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.

- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

31. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

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

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

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

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

the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

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

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

51. It is pointed out that we have already held that the said single storey Jhuggi No. C-33/R-10 was in existence in Kali Bari, RML, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was living in the said single storey Jhuggi No. C-33/R-10 and further the Appellant/Claimant had been using the same for residential purposes on the cutoff date of 01.01.2015 till it was demolished in the year 2024 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

52. It is also pointed out that we have already held that the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA but her claim was rejected by EDC on 13.02.2024 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z15) whereby two reasons for rejection are mentioned to be **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the**

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applicant not found valid". However, the grounds of rejection seem to be wrongly & erroneously mentioned in the Rejection Order dated 25.07.2024 (Annexure-Z15) because it is pertinent to point that the remarks given in the EDC Note dated dated 25.07.2024 (Annexure-Z15) are self-contradictory in nature because on the one hand it is mentioned that the Voter ID Card of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

53. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No C-33/R-10, Kali Bari, RML, Delhi as per the policy guidelines issued by DDA.

54. The Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E), the Letter No. F(14)/AC-40/Misc./2024/559 dated 13.11.2024 (Annexure-Y) of AERO, AC-40, New Delhi, Voter List of the year 2012 (Annexure-Z), Voter List of the year 2013 (Annexure-Z1), Voter List of the year 2014 (Annexure-Z2), Voter List of the year 2015 (Annexure-Z3), Voter List of the year 2016 (Annexure-Z4), Voter List of the year 2017 (Annexure-Z5), Voter List of the year 2018 (Annexure-Z6), Voter List of the year 2019 (Annexure-Z7), Voter List of the year 2020 (Annexure-Z8), Voter List of the year 2021 (Annexure-Z9), Voter List of the year 2022 (Annexure-Z10), Voter List of the year 2023 (Annexure-Z11) and Voter List of the year 2024 (Annexure-Z12) in support of her claim.

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55. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-Z & Annexure-Z1 to Annexure-Z15, in support of her claim. The Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C) and all of them have been issued on the address of Jhuggi No. C-33/R-10. Furthermore, the Appellant/Claimant has tendered her Aadhar Card No. 8036 9285 6185 (Annexure-D) and the date of issuance is not mentioned in this document but this document has also been issued on the address of Jhuggi No. C-33/R-10. Furthermore, the first and second Voter ID Cards (Annexure-A & Annexure-B) are bearing same numbers, i.e. SJE 0176586. The first Voter ID Card No. SJE0176586 (Annexure-A) of the Appellant/Claimant has been issued on 18.10.2008 whereas the second Voter D Card No. SJE 0176586 (Annexure-B) has been issued on 18.06.2016 and the third Voter ID Card No. SJE 2396687 (Annexure-C) of the Appellant/Claimant has been issued on 13.04.2024. Further, the Letter No. F (14)/AC-40/Misc./2024/559 dated 13.11.2024 (Annexure-Y) of AERO, AC-40, New Delhi shows that the Voter ID Card No. SJE 0176586 are reflected in the Vote List of the years from 2012 to 2022 and the Voter ID Card No. SJE 2396687 is reflected in the Vote List of the year 2024.

56. Furthermore, Dilshad Ahemad, Assistant Director, has further stated that the voter list provided by the AERO, AC-40 to the Department, did not include the applicant's name while submission to the Eligibility Determination Committee (EDC), consequently, the EDC rejected the applicant's claim based on policy guidelines. However, during the appeal hearing, the AERO, AC-40 issued a letter in response to the order dated 01.11.2024, issued by the Appellate Authority, directing the AERO, AC-40 to provide the voter list to the claimant. In the list provided to the claimant, the applicant's name was found. Therefore, attention is required to assess the genuineness of the contradictory reports issued by the AERO, AC-40.

57. It is pointed out that the Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C) and all of them have been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Appellant/Claimant has tendered her Aadhar Card No. 8036 9285 6185 (Annexure-D) and the date of issuance is not mentioned in this document but this document has also been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA.

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58. Furthermore, the first and second Voter ID Cards (Annexure-A & Annexure-B) are bearing same number i.e. SJE 0176586. The first Voter ID Card No. SJE0176586 (Annexure-A) of the Appellant/Claimant has been issued on 18.10.2008, much prior to the cutoff date 01.01.2015 whereas the second Voter D Card No. SJE 0176586 (Annexure-B) has been issued on 18.06.2016, much after the cutoff date 01.01.2015. The third Voter ID Card No. SJE 2396687 (Annexure-C) of the Appellant/Claimant has been issued on 13.04.2024, much after the cutoff date 01.01.2015.

59. The Appellant/Claimant has explained the reasons for having got three Voter ID Cards issued in her favour. The Appellant/Claimant has stated that the first Voter ID Card No. SJE 0176586 dated 18.10.2008 (Annexure-A) was misplaced by her and accordingly she has got issued the second Voter ID Card No. SJE0176586 (Annexure-B), which is a duplicate Voter ID Card, in her favour on 18.06.2016. Furthermore, the Appellant/Claimant has stated that the Election Commission has withdrawn the "Black & White" series and issued a new "Coloured" series and accordingly the Voter ID Card No. SJE176586 (Annexure-A & Annexure-B) were withdrawn and in its place a new Voter ID Card No. SJE 2396687 (Annexure-C) was issued in her favour. There is nothing to disbelieve the statement of the Appellant/Claimant on this aspect.

60. It is pointed out that the Letter No. F (14)/AC-40/Misc./2024/559 dated 13.11.2024 (Annexure-Y) of AERO, AC-40, New Delhi shows that the Voter ID Card No. SJE 0176586 (Annexure-A & Annexure-B) of the Appellant/Claimant are valid documents as per the records of the Election Commission and further this Voter ID Card No. SJE 0176586 is duly reflected in the Vote List of the years from 2012 to 2022 whereas the Voter ID Card No. SJE 2396687 (Annexure-C) of the Appellant/Claimant is also a valid document as per the records of the Election Commission and further this Voter ID Card No. SJE 2396687 is duly reflected in the Vote List of the year 2024. On the other hand, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi from 18.10.2008 (the date of issuance of the first Voter ID Card No. SJE 0176586- Annexure-A) to 13.04.2024 (the date of issuance of the third Voter ID Card No. SJE 2396687 - Annexure-C) and even till the said Jhuggi was demolished in the year 2024.

61. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 672 in the Voter List of the year 2012 (Annexure-Z), at Sl. No. 672 in the Voter List of the year 2013 (Annexure-Z1),

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at Sl. No. 566 in the Voter List of the year 2014 (Annexure-Z2), at Sl. No. 597 in the Voter List of the year 2015 (Annexure-Z3), at Sl. No. 578 in the Voter List of the year 2016 (Annexure-Z4), at Sl. No. 568 in the Voter List of the year 2017 (Annexure-Z5), at Sl. No. 564 in the Voter List of the year 2018 (Annexure-Z6), at Sl. No. 577 in the Voter List of the year 2019 (Annexure-Z7), at Sl. No. 619 in the Voter List of the year 2020 (Annexure-Z8), at Sl. No. 598 in the Voter List of the year 2021 (Annexure-Z9), at Sl. No. 590 in the Voter List of the year 2022 (Annexure-Z10) and her name does not appear in the Voter List of the year 2023 (Annexure-Z11) but her name appears at Sl. No. 1082 in the Voter List of the year 2024 (Annexure-Z12). Furthermore, in all the Voter List of the years from 2021 to 2022 (Annexure-Z to Annexure-Z10) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 0176586 (Annexure-A & Annexure-B) whereas in Voter List of the year 2024 (Annexure-Z12) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396687 (Annexure-C) and further in all the above mentioned documents (Annexure-A to Annexure-D, Annexure-Z and Annexure-Z1 to Annexure-Z10 & Annexure-Z12) the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA.

62. Accordingly, we have no hesitation in holding that the Appellant/Claimant has initially got the first Voter ID Card No. SJE 0176586 dated 18.10.2008 (Annexure-A) issued in her favour much prior to the cutoff date of 01.01.2015 but it was misplaced and accordingly she has got issued the second Voter ID Card No. SJE 0176586 dated 18.06.2016 (Annexure-B), which is a duplicate Voter ID Card, issued in her favour. Further, the Letter No. F (14)/AC-40/Misc./2024/559 dated 13.11.2024 (Annexure-Y) of AERO, AC-40, New Delhi shows that the Voter ID Card No. SJE 0176586 (Annexure-A & Annexure-B) of the Appellant/Claimant are valid documents as per the records of the Election Commission and further this Voter ID Card No. SJE 0176586 (Annexure-A & Annexure-B) is duly reflected in the Vote List of the years from 2012 to 2022. Furthermore, the Appellant/Claimant the Election Commission has withdrawn the "Black & White" series and issued a new "Coloured" series and accordingly the Voter ID Cards No. SJE176586 (Annexure-A & Annexure-B) were withdrawn and in its place a new Voter ID Card No. SJE 2396687 (Annexure-C) was issued in favour of the Appellant/Claimant. Further, the Letter No. F (14)/AC-40/Misc./2024/559 dated 13.11.2024 (Annexure-Y) of AERO, AC-40, New Delhi shows that the Voter ID Card No. SJE 2396687

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(Annexure-C) of the Appellant/Claimant is also a valid document as per the records of the Election Commission and this Voter ID Card No. SJE 2396687 is duly reflected in the Vote List of the year 2024. Furthermore, in all the Voter List of the years from 2021 to 2022 (Annexure-Z to Annexure-Z10) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 0176586 (Annexure-A & Annexure-B) whereas in Voter List of the year 2024 (Annexure-Z12) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396687 (Annexure-C) and further in all the above mentioned documents (Annexure-A to Annexure-D, Annexure-Z and Annexure-Z1 to Annexure-Z10 & Annexure-Z12) the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Therefore, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant was having a valid Voter ID Card issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and further the name of the Appellant/ Claimant appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 but these facts were ignored by the EDC.

63. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because his name does not appear in the voter list of the year of survey, i.e., 2023 (because as per the Survey Performa (Annexure-Z13) placed on file survey/videography was conducted in the year 2023) even though she was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also continuously appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024.

64. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) *before each general election to the House of People or*

(ii) *to the Assembly of a State or*

(iii) *before bye-election or*

(iv) *in any year if such revision has been directed by the Election Commission.*

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65. Therefore, the reasons for not tendering the Voter List of the year of survey, i.e., 2023 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the years 2023 (year of survey) when it was not prepared/ available with the Election Commission.

66. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains his Voter ID Card on 18.10.2008, before the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 but their name happened to be not appearing in the Voter List of the year 2023 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter list of the year 2023 even though they possess all the relevant documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 and further all these documents in unequivocal terms shows that they have been continuing living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which she is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the year 2023 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the voter list of the year 2023 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No. SJE 0176586 dated 18.10.2008 (Annexure-A), which have

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been issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which she is claiming allotment from DDA and further this Voter ID Card has been issued much prior to the cutoff date of 01.01.2015 and thereafter the duplicate Voter ID Card No. SJE 0176586 dated 18.06.2016 (Annexure-B) was issued when the original was misplaced. The Appellant/Claimant is also having another valid Voter ID Card No. SJE 23966687 dated 13.04.2024 (Annexure-C) & the Aadhar Card No. 8036 9285 6185 (Annexure-D), which have also been issued on the address of the Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, regarding which she is claiming allotment from DDA. Further, the Letter No. F (14)/AC-40/Misc./2024/559 dated 13.11.2024 (Annexure-Y) of AERO, AC-40, New Delhi shows that the Voter ID Card No. SJE 0176586 (Annexure-A & Annexure-B) of the Appellant/Claimant are valid documents as per the records of the Election Commission and further this Voter ID Card No. SJE 0176586 (Annexure-A & Annexure-B) is duly reflected in the Vote List of the years from 2012 to 2022 (Annexure-Z & Anneure-Z1 to & Annexure-Z10) and furthermore, the Voter ID Card No. SJE 2396687 (Annexure-C) of the Appellant/Claimant is also a valid document as per the records of the Election Commission and further this Voter ID Card No. SJE 2396687 (Annexure-C) is duly reflected in the Vote List of the year 2024 (Annexure-Z12). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 672 in the Voter List of the year 2012 (Annexure-Z), at Sl. No. 672 in the Voter List of the year 2013 (Annexure-Z1), at Sl. No. 566 in the Voter List of the year 2014 (Annexure-Z2), at Sl. No. 597 in the Voter List of the year 2015 (Annexure-Z3), at Sl. No. 578 in the Voter List of the year 2016 (Annexure-Z4), at Sl. No. 568 in the Voter List of the year 2017 (Annexure-Z5), at Sl. No. 564 in the Voter List of the year 2018 (Annexure-Z6), at Sl. No. 577 in the Voter List of the year 2019 (Annexure-Z7), at Sl. No. 619 in the Voter List of the year 2020 (Annexure-Z8), at Sl. No. 598 in the Voter List of the year 2021 (Annexure-Z9), at Sl. No. 590 in the Voter List of the year 2022 (Annexure-Z10) and her name does not appear in the Voter List of the year 2023 (Annexure-Z11) but her name appears at Sl. No. 1082 in the Voter List of the year 2024 (Annexure-Z12). Furthermore, in all the Voter List of the years from 2021 to 2022 (Annexure-Z to Annexure-Z10) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 0176586 (Annexure-A & Annexure-B) whereas in Voter List of the year 2024 (Annexure-Z12) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396687 (Annexure-C) and further in all the above mentioned documents (Annexure-A to Annexure-D, Annexure-Z and Annexure-Z1 to Annexure-Z10 & Annexure-Z12) the

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address of the Appellant/Claimant is mentioned to be Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA.

67. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate his residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[1] 2017 SCC OnLine Del 9715.**

68. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
>
> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these*

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persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

69. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed

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detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

70. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having a valid Voter ID Card & also a Aadhar Card on the cutoff date of 01.01.2015 and further she possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then her claim can not be rejected by taking hyper technical view especially when the Appellant/Claimant was having a valid Voter ID Card No. SJE 0176586 dated 18.10.2008 (Annexure-A) on the cutoff date of 01.01.2015 & duplicate Voter ID Card No. SJE 0176586 dated 18.06.2016 (Annexure-B) and further another valid Voter ID Card No. SJE 23966687 dated 13.04.2024 (Annexure-C) & the Aadhar Card No. 8036 9285 6185 (Annexure-D) and further her name also appears continuously in the Voter Lists from the years 2012 to 2022 & 2024 (Annexure-Z & Annexure Z1 to Annexure Z10 & Annexure-Z12) and all the documents (Annexure-A to Annexure-D, Annexure-Z and Annexure-Z1 to Annexure-Z10 & Annexure-Z12) have been issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which she is claiming allotment from DDA and further she as well her family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

71. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a Voter ID Card & a Aadhar Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013, 2014 & 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 and further the reasons for her name having not reflected in the Voter List of the year of survey (2023) has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds for rejection, namely, **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid"** communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z15) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority and consequently, the EDC Note dated 13.02.2024 (Annexure-Z14) and also in the Rejection Order dated 25.07.2024 (Annexure-Z15) are not sustainable being erroneous, wrong and against the

facts.

72. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lend support to the claim put forward by the Appellant/Claimant.

73. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-F & Annexure-G), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of her husband Surender as well as Voter ID Card (Annexure-J), Aadhar Card (Annexure-K) & PAN Card (Annexure-L) of her son Sunil and two Voter ID Cards (Annexure-M & Annexure-N), Aadhar Card (Annexure-O) & PAN Card (Annexure-P) of her son Ravi and also Voter ID Card (Annexure-Q), Aadhar Card (Annexure-R) & PAN Card (Annexure-S) of her daughter Pinky as well as Disability Certificate (Annexure-T & Annexure-U), the Electricity Bill (Annexure-V), Gas Connection Receipt (Annexure-W) and Ration Card (Annexure-X) in support of her claim.

DOCUMENTS OF SURENDER (husband of the Appellant/Claimant)

74. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-F & Annexure-G) of her husband Surender. The first Voter ID Card No. SJE 0176578 (Annexure-F) of her husband Surender has been issued on 18.10.2008, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card No. SJE 2396638 (Annexure-G) of her husband Surender has been issued on 13.04.2024, much after the cutoff date 01.01.2015. Furthermore, both the Voter ID Cards (Annexure-F & Annexure-G) have been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Appellant/Claimant has tendered the Aadhar Card No. 5630 5110 8013 (Annexure-H) of her husband Surender and it has been issued on 12.12.2019 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Appellant/Claimant has explained the reasons for her husband having two Voter ID Cards (Annexure-F & Annexure-G) because she has stated that the Election Commission has withdrawn "Black & White" series and issued a new "Coloured" series and accordingly the Voter ID Card No. SJE 0176578 (Annexure-F) was withdrawn and

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in its place new Voter ID Card No. SJE 2396638 (Annexure-G) was issued in favour of her husband Surender. On the other hand, the issuance of two Voter ID Cards shows that Surender, who is the husband of the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi from 18.10.2008 (the date of issuance of the first Voter ID Card No. SJE 0176578 - Annexure-F) to 13.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2396638 (Annexure-G) and even till the demolition of the Jhuggi in the year 2024. Furthermore, the name of her husband Surender appears at Sl. No. 671 in the Voter List of the year 2012 (Annexure-Z), at Sl. No. 671 in the Voter List of the year 2013 (Annexure-Z1), at Sl. No. 565 in the Voter List of the year 2014 (Annexure-Z2), at Sl. No. 596 in the Voter List of the year 2015 (Annexure-Z3), at Sl. No. 577 in the Voter List of the year 2016 (Annexure-Z4), at Sl. No. 567 in the Voter List of the year 2017 (Annexure-Z5), at Sl. No. 563 in the Voter List of the year 2018 (Annexure-Z6), at Sl. No. 576 in the Voter List of the year 2019 (Annexure-Z7), at Sl. No. 618 in the Voter List of the year 2020 (Annexure-Z8), at Sl. No. 597 in the Voter List of the year 2021 (Annexure-Z9), at Sl. No. 589 in the Voter List of the year 2022 (Annexure-Z10) and his name does not appear in the Voter List of the year 2023 (Annexure-Z11) but his name appears at Sl. No. 1080 in the Voter List of the year 2024 (Annexure-Z12). Furthermore, in all the above Voter Lists Annexure-Z, Annexure-Z1 to Annexure-Z10 the number of the Voter ID Card of her husband Surender is mentioned to be SJE 0176578 (Annexure-F) and in the Voter List of the year 2024 (Annexure-Z12), the number of the Voter ID Card of her husband Surender is mentioned to be SJE 2396638 (Annexure-G) and furthermore, in all the documents (Annexure-F to Annexure-H, Annexure-Z, Annexure-Z1 to Annexure-Z10 & Annexure-Z12) the address is mentioned to be Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA.

DOCUMENTS OF SUNIL (son of the Appellant/Claimant)

75. The Appellant/Claimant has tendered the Voter ID Card No. SJE 2021094 (Annexure-J) of her son Sunil and it has been issued on 30.10.2018. Furthermore, it has been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Appellant/Claimant has also tendered the Aadhar Card No. 2028 8102 1089 (Annexure-K) of her son Sunil and the date of issuance is not mentioned but it has been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA.

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DOCUMENTS OF RAVI (son of the Appellant/Claimant)

76. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-M & Annexure-N) of her son Ravi. The first Voter ID Card No. SJE 1470764 (Annexure-M) has been issued on 09.07.2010, much prior to the cutoff date 01.01.2015 and the second Voter ID Card No. SJE 2402410 (Annexure-N) has been issued on 20.04.2024 and further both the Voter ID Cards (Annexure-M & Annexure-N) have been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Aadhar Card No. 3658 8349 6676 (Annexure-O) of her son Ravi has been issued on 27.11.2011, much prior to the cutoff date 01.01.2015 and further it has been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. On the other hand, the issuance of two Voter ID Cards shows that Ravi, who is the son of the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi from 09.07.2010 (the date of issuance of the first Voter ID Card No. SJE 1470764- Annexure-M) to 20.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2402410 (Annexure-N) and even till the demolition of the Jhuggi in the year 2024. Furthermore, the name of her son Ravi appears at Sl. No. 670 in the Voter List of the year 2012 (Annexure-Z), at Sl. No. 670 in the Voter List of the year 2013 (Annexure-Z1), at Sl. No. 564 in the Voter List of the year 2014 (Annexure-Z2), Vat Sl. No. 595 in the Voter List of the year 2015 (Annexure-Z3), at Sl. No. 575 in the Voter List of the year 2016 (Annexure-Z4), at Sl. No. 565 in the Voter List of the year 2017 (Annexure-Z5), at Sl. No. 561 in the Voter List of the year 2018 (Annexure-Z6), at Sl. No. 574 in the Voter List of the year 2019 (Annexure-Z7), at Sl. No. 616 in the Voter List of the year 2020 (Annexure-Z8), at Sl. No. 595 in the Voter List of the year 2021 (Annexure-Z9), at Sl. No. 587 in the Voter List of the year 2022 (Annexure-Z10) and his name does not appear in the Voter List of the year 2023 (Annexure-Z11) but his name appears at Sl. No. 1087 in the Voter List of the year 2024 (Annexure-Z12). Furthermore, in all the above Voter Lists (Annexure-Z, Annexure-Z1 to Annexure-Z10) the number of the Voter ID Card of her son Ravi is mentioned to be SJE 1470764 (Annexure-M) and in the Voter List of the year 2024 (Annexure-Z12), the number of the Voter ID Card of her son Ravi is mentioned to be SJE 2402410 (Annexure-N) and furthermore, in all the documents (Annexure-M to Annexure-O, Annexure-Z, Annexure-Z1 to Annexure-Z10 & Annexure-Z12) the address is mentioned to be Jhuggi No. C-33/R-10

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regarding which the Appellant/Claimant has been claiming allotment from DDA.

DOCUMENTS OF PINKI (daughter of the Appellant/Claimant)

77. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. SJE 2149086 (Annexure-Q) of her daughter Pinky and it has been issued on 10.12.2019 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Appellant/Claimant has tendered the Aadhar Card No. 2784 3010 3385 (Annexure-R) and it has been issued on 23.12.2019. Furthermore, this document has also been issued on the address Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA.

MISC. DOCUMENTS of the Appellant/Claimant & family members

78. It is pointed out that the Appellant/Claimant has tendered her Disability Certificate (Annexure-T), which has been issued by RML Hospital, Delhi on 29.10.2010, much prior to the cutoff date 01.01.2015 and this document has also been issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA. The Disability Certificate (Annexure-U) of her daughter Pinky has been issued by RML Hospital, Delhi on 12.06.2017 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Electricity Bill (Annexure-V) shows that the Appellant/Claimant had taken electricity connection on 30.09.2008, much prior to the cutoff date 01.01.2015 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, the Gas Connection Receipt (Annexure-W) shows that the Appellant/Claimant had taken gas connection 30.11.2023 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Ration Card No. 077004023975 (Annexure-X) has been issued in favour of the Appellant/Claimant on 16.06.2014, much prior to the cutoff date 01.01.2015 and the names of her husband and children are mentioned and furthermore, this document has also been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Disability Certificates (Annexure-T & Annexure-U), Electricity Bill (Annexure-V), the Gas Connection Receipt (Annexure-W) and the Ration Card (Annexure-X) are covered as "one of" the documents in the list of the 12

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

79. The Appellant/Claimant has tendered her documents and also of her family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Electricity Bill, Gas Connection Receipt, Disability Certificates and Ration Card etc. and all these documents have been issued from 2008 to 2024 and it accordingly amply establishes that she as well as his family members have been living jointly in the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, since long and more particularly on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015 and till the Jhuggi was demolished in the year 2024. The material placed on file shows that the Disability Certificates (Annexure-T & Annexure-U), Electricity Bill (Annexure-V), the Gas Connection Receipt (Annexure-W) and the Ration Card (Annexure-X), are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

80. In view of the matter as per our discussion above, the material placed on file supports the claim of the Appellant/ Claimant and shows that the Appellant/ Claimant fulfils the eligibility criteria as per the policy guidelines issued by DDA as under: -

(a) The material placed on file shows that the Appellant/Claimant on the cutoff date of 01.01.2015 along with her family had been using the Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, which constitute single dwelling unit, for residential purposes and further as per our discussion above, the documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z15, shows that the first & second Voter ID Cards (Annexure-A & Annexure-B) of the Appellant/Claimant are bearing same numbers, i.e., SJE 0176586. The second Voter ID Card (Annexure-B) is duplicate and it was got issued by the Appellant/Claimant when the first Voter ID Card (Annexure-A) was misplaced by her. The first Voter ID Card (Annexure-A) has been issued on 18.10.2008, much prior to the cut off date of 01.01.2015 and it has been issued on the address of the Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi. The second Voter ID Card (Annexure-B) has been issued on 18.06.2016 and it has been issued on the address of the Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi. The third Voter ID Card is bearing No. SJE 2396687 (Annexure-C) and it has been issued on 13.04.2024 on the address of the Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, regarding which the Appellant/Claimant is claiming allotment from DDA and further DDA has not

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challenged the validity of this Voter ID Card. The Aadhar Card No. 8036 9286 6185 (Annexure-D) of the Appellant/Claimant has been issued on the address of the Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, regarding which she is claiming allotment from DDA. Further, the Appellant/Claimant has explained the reasons for having two Voter ID Cards at different point of time. On the other hand, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi from 18.10.2008 (the date of issuance of the first Voter ID Card No. SJE 0176586- Annexure-A) to 13.04.2024 (the date of issuance of the third Voter ID Card No. SJE 2396687 - Annexure-C) and even till the demolition of the Jhuggi in the year 2024.

(b) The material placed on file shows that the Letter No. F (14)/AC-40/Misc./2024/559 dated 13.11.2024 (Annexure-Y) of AERO, AC-40, New Delhi shows that the Voter ID Card No. SJE 0176586 (Annexure-A & Annexure-B) of the Appellant/Claimant are valid documents as per the records of the Election Commission and further this Voter ID Card No. SJE 0176586 is duly reflected in the Vote List of the years from 2012 to 2022 and furthermore, the Voter ID Card No. SJE 2396687 (Annexure-C) of the Appellant/Claimant is also a valid document as per the records of the Election Commission and further this Voter ID Card No. SJE 2396687 is duly reflected in the Vote List of the year 2024. But as already pointed out above, the reasons for not tendering the Voter List of the year 2023 (year of survey) has been well explained and accordingly the Appellant/Claimant cannot be penalized for not having Voter List of the year 2023 (year of survey).

(c) The material placed on file shows that the name of the Appellant/Claimant appears at Sl. No. 672 in the Voter List of the year 2012 (Annexure-Z), at Sl. No. 672 in the Voter List of the year 2013 (Annexure-Z1), at Sl. No. 566 in the Voter List of the year 2014 (Annexure-Z2), at Sl. No. 597 in the Voter List of the year 2015 (Annexure-Z3), at Sl. No. 578 in the Voter List of the year 2016 (Annexure-Z4), at Sl. No. 568 in the Voter List of the year 2017 (Annexure-Z5), at Sl. No. 564 in the Voter List of the year 2018 (Annexure-Z6), at Sl. No. 577 in the Voter List of the year 2019 (Annexure-Z7), at Sl. No. 619 in the Voter List of the year 2020 (Annexure-Z8), at Sl. No. 598 in the Voter List of the year 2021 (Annexure-Z9), at Sl. No. 590 in the Voter List of the year 2022 (Annexure-Z10) and her name does not appear in the Voter List of the year 2023 (Annexure-Z11) but her name appears at Sl. No. 1082 in the Voter List of the year 2024 (Annexure-Z12). Furthermore, in all the Voter

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List of the years from 2021 to 2022 (Annexure-Z to Annexure-Z10) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 0176586 (Annexure-A & Annexure-B) whereas in Voter List of the year 2024 (Annexure-Z12) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396687 (Annexure-C) and further in all the above mentioned documents (Annexure-A to Annexure-D, Annexure-Z and Annexure-Z1 to Annexure-Z10 & Annexure-Z12) the address of the Appellant/Claimant is mentioned to be Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA. Thus, on the cutoff date of 01.01.2015 the Appellant/ Claimant was having a valid Voter ID Card issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and further the name of the Appellant/ Claimant appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024.

(d) The material placed on file shows that the Appellant/Claimant was having a Voter ID Card & a Aadhar Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013, 2014 & 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 and further the reasons for her name having not reflected in the Voter List of the year of survey (2023) has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds for rejection, namely, **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid"** communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z15) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority and consequently, the EDC Note dated 13.02.2024 (Annexure-Z14) and also in the Rejection Order dated 25.07.2024 (Annexure-Z15) are not sustainable being erroneous, wrong and against the facts.

(e) The material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/ Claimant was having a valid Voter ID Card issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming

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allotment from DDA and further the name of the Appellant/ Claimant appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 and further the reasons for not tendering the Voter List of the year 2023 (year of survey) has been well explained and accordingly the Appellant/Claimant cannot be penalized for not having Voter List of the year 2023 (year of survey) but all these relevant & material facts were not duly considered by EDC.

(f) The material placed on file also shows that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-F & Annexure-G), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of her husband Surender as well as Voter ID Card (Annexure-J), Aadhar Card (Annexure-K) & PAN Card (Annexure-L) of her son Sunil and two Voter ID Cards (Annexure-M & Annexure-N), Aadhar Card (Annexure-O) & PAN Card (Annexure-P) of her son Ravi and also Voter ID Card (Annexure-Q), Aadhar Card (Annexure-R) & PAN Card (Annexure-S) of her daughter Pinky as well as Disability Certificate (Annexure-T & Annexure-U), the Electricity Bill (Annexure-V), Gas Connection Receipt (Annexure-W) and Ration Card (Annexure-X) in support of her claim.

(g) The material placed on file also shows that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-F & Annexure-G) of her husband Surender. The first Voter ID Card No. SJE 0176578 (Annexure-F) of her husband Surender has been issued on 18.10.2008, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card No. SJE 2396638 (Annexure-G) of her husband Surender has been issued on 13.04.2024, much after the cutoff date 01.01.2015. Furthermore, both the Voter ID Cards (Annexure-F & Annexure-G) have been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Appellant/Claimant has tendered the Aadhar Card No. 5630 5110 8013 (Annexure-H) of her husband Surender and it has been issued on 12.12.2019 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Appellant/Claimant has explained the reasons for her husband having two Voter ID Cards (Annexure-F & Annexure-G) because she has stated that the Election Commission has withdrawn "Black & White" series and issued a new "Coloured" series and accordingly the Voter ID Card No. SJE 0176578 (Annexure-F) was withdrawn and in its place new Voter ID Card No. SJE 2396638 (Annexure-G) was issued in favour of

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her husband Surender. On the other hand, the issuance of two Voter ID Cards shows that Surender, who is the husband of the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi from 18.10.2008 (the date of issuance of the first Voter ID Card No. SJE 0176578 - Annexure-F) to 13.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2396638 (Annexure-G) and even till the demolition of the Jhuggi in the year 2024. Furthermore, the name of her husband Surender appears at Sl. No. 671 in the Voter List of the year 2012 (Annexure-Z), at Sl. No. 671 in the Voter List of the year 2013 (Annexure-Z1), at Sl. No. 565 in the Voter List of the year 2014 (Annexure-Z2), at Sl. No. 596 in the Voter List of the year 2015 (Annexure-Z3), at Sl. No. 577 in the Voter List of the year 2016 (Annexure-Z4), at Sl. No. 567 in the Voter List of the year 2017 (Annexure-Z5), at Sl. No. 563 in the Voter List of the year 2018 (Annexure-Z6), at Sl. No. 576 in the Voter List of the year 2019 (Annexure-Z7), at Sl. No. 618 in the Voter List of the year 2020 (Annexure-Z8), at Sl. No. 597 in the Voter List of the year 2021 (Annexure-Z9), at Sl. No. 589 in the Voter List of the year 2022 (Annexure-Z10) and his name does not appear in the Voter List of the year 2023 (Annexure-Z11) but his name appears at Sl. No. 1080 in the Voter List of the year 2024 (Annexure-Z12). Furthermore, in all the above Voter Lists Annexure-Z, Annexure-Z1 to Annexure-Z10 the number of the Voter ID Card of her husband Surender is mentioned to be SJE 0176578 (Annexure-F) and in the Voter List of the year 2024 (Annexure-Z12), the number of the Voter ID Card of her husband Surender is mentioned to be SJE 2396638 (Annexure-G) and furthermore, in all the documents (Annexure-F to Annexure-H, Annexure-Z, Annexure-Z1 to Annexure-Z10 & Annexure-Z12) the address is mentioned to be Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA.

(h) The material placed on file also shows that the Appellant/Claimant has tendered the Voter ID Card No. SJE 2021094 (Annexure-J) of her son Sunil and it has been issued on 30.10.2018. Furthermore, it has been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Appellant/Claimant has also tendered the Aadhar Card No. 2028 8102 1089 (Annexure-K) of her son Sunil and the date of issuance is not mentioned but it has been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA.

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(i) The material placed on file also shows that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-M & Annexure-N) of her son Ravi. The first Voter ID Card No. SJE 1470764 (Annexure-M) has been issued on 09.07.2010, much prior to the cutoff date 01.01.2015 and the second Voter ID Card No. SJE 2402410 (Annexure-N) has been issued on 20.04.2024 and further both the Voter ID Cards (Annexure-M & Annexure-N) have been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Aadhar Card No. 3658 8349 6676 (Annexure-O) of her son Ravi has been issued on 27.11.2011, much prior to the cutoff date 01.01.2015 and further it has been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. On the other hand, the issuance of two Voter ID Cards shows that Ravi, who is the son of the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi from 09.07.2010 (the date of issuance of the first Voter ID Card No. SJE 1470764- Annexure-M) to 20.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2402410 (Annexure-N) and even till the demolition of the Jhuggi in the year 2024. Furthermore, the name of her son Ravi appears at Sl. No. 670 in the Voter List of the year 2012 (Annexure-Z), at Sl. No. 670 in the Voter List of the year 2013 (Annexure-Z1), at Sl. No. 564 in the Voter List of the year 2014 (Annexure-Z2), Vat Sl. No. 595 in the Voter List of the year 2015 (Annexure-Z3), at Sl. No. 575 in the Voter List of the year 2016 (Annexure-Z4), at Sl. No. 565 in the Voter List of the year 2017 (Annexure-Z5), at Sl. No. 561 in the Voter List of the year 2018 (Annexure-Z6), at Sl. No. 574 in the Voter List of the year 2019 (Annexure-Z7), at Sl. No. 616 in the Voter List of the year 2020 (Annexure-Z8), at Sl. No. 595 in the Voter List of the year 2021 (Annexure-Z9), at Sl. No. 587 in the Voter List of the year 2022 (Annexure-Z10) and his name does not appear in the Voter List of the year 2023 (Annexure-Z11) but his name appears at Sl. No. 1087 in the Voter List of the year 2024 (Annexure-Z12). Furthermore, in all the above Voter Lists (Annexure-Z, Annexure-Z1 to Annexure-Z10) the number of the Voter ID Card of her son Ravi is mentioned to be SJE 1470764 (Annexure-M) and in the Voter List of the year 2024 (Annexure-Z12), the number of the Voter ID Card of her son Ravi is mentioned to be SJE 2402410 (Annexure-N) and furthermore, in all the documents (Annexure-M to Annexure-O, Annexure-Z, Annexure-Z1 to Annexure-Z10 & Annexure-Z12) the address is

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mentioned to be Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA.

(j) The material placed on file also shows that the Appellant/Claimant has tendered the Voter ID Card No. SJE 2149086 (Annexure-Q) of her daughter Pinky and it has been issued on 10.12.2019 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Appellant/Claimant has tendered the Aadhar Card No. 2784 3010 3385 (Annexure-R) and it has been issued on 23.12.2019. Furthermore, this document has also been issued on the address Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA.

(k) The material placed on file also shows that the Appellant/Claimant has tendered her Disability Certificate (Annexure-T), which has been issued by RML Hospital, Delhi on 29.10.2010, much prior to the cutoff date 01.01.2015 and this document has also been issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA. The Disability Certificate (Annexure-U) of her daughter Pinky has been issued by RML Hospital, Delhi on 12.06.2017 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Electricity Bill (Annexure-V) shows that the Appellant/Claimant had taken electricity connection on 30.09.2008, much prior to the cutoff date 01.01.2015 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, the Gas Connection Receipt (Annexure-W) shows that the Appellant/Claimant had taken gas connection 30.11.2023 on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Ration Card No. 077004023975 (Annexure-X) has been issued in favour of the Appellant/Claimant on 16.06.2014, much prior to the cutoff date 01.01.2015 and the names of her husband and children are mentioned and furthermore, this document has also been issued on the address of Jhuggi No. C-33/R-10 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Disability Certificates (Annexure-T & Annexure-U), Electricity Bill (Annexure-V), the Gas Connection Receipt (Annexure-W) and the Ration Card (Annexure-X) are covered as "one

of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015.

(I) The material placed on file shows that the the Disability Certificates (Annexure-T & Annexure-U), Electricity Bill (Annexure-V), the Gas Connection Receipt (Annexure-W) and the Ration Card (Annexure-X) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that the Appellant/Claimant has tendered her documents and also of her family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Electricity Bill, Gas Connection Receipt, Disability Certificates and Ration Card etc. (Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z15) and all these documents have been issued from 2008 to 2024 and it accordingly amply establishes that she as well as his family members have been living jointly in the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, since long and more particularly on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015 and even till the demolition of the said Jhuggi in the year 2024. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/Claimant was having all the requisite documents and accordingly the Appellant/Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

81. As already pointed out above the survey records & the video clips prepared by the survey team of DDA and the statement of the Appellant/Claimant clearly shows that the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA but her claim was rejected by EDC on 13.02.2024 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z15) whereby two reasons for rejection are mentioned to be **"1. The name of the applicant has not been found in year of survey** even though her name **appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015).** 2. The **voter card submitted by the applicant not found valid".** It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi of the Appellant/Claimant However, the grounds of rejection have been wrongly & erroneously

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mentioned in the Rejection Order dated 25.07.2024 (Annexure-Z15) because it is pertinent to point that the remarks given in the EDC Note dated dated 13.02.2024 (Annexure-Z14) are self-contradictory because on the one hand it is mentioned that the Voter ID Card of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. Further, as per our discussion above it has been found by this Appellate Authority that the Appellant/Claimant has claimed allotment against the single storey Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi, which constitute single dwelling unit, and further she was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML, Delhi regarding which she has been claiming allotment from DDA and further her name also appears continuously in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 and the reasons for not tendering the Voter List of the year 2023 (year of survey) is well explained in the present case and further she was having "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015 but all these relevant facts were not duly considered by EDC. Hence, the ground of rejection **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** as reflected in the EDC Note dated 13.02.2024 (Annexure-Z14) as well as in the Rejection Order dated 25.07.2024 (Annexure-Z15) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority.

82. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 06-KB-/2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. F2(ISR)RML/41/2023 dated 25.07.2024 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant Pushpa W/o Surender Kumar in respect of the single storey Jhuggi No. C-33/R-10, which constitute single dwelling unit, Kali Bari, RML, Delhi.

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83. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. 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 GOLDEN PARK, RAM PURA, DELHI

Appeal No: 02-GP/2024

Date of Institution: 04.11.2024

Date of Order: 25.02.2025

Present: Appellant/ Claimant Maneesha Ahirwar W/o Bali Ram

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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-12, Golden Park, Ram Pura, Delhi. A Public Notice by DDA was pasted in the Golden Park to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-12 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

Nodal Officer, Golden Park, duly communicated its order bearing No. F01/IEL/ISR/PMAY/DDA/247 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 02-GP/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 22.11.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-12 was found to exist on the first 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 11.09.2024 whereby the reasons for rejection is mentioned to be **"Ration Card not submitted / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the first floor of the

Jhuggi No. B-12 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Maneesha Ahirwar has been recorded before us on 22.11.2024 wherein she has stated that her in-laws, Mani Ram & Radha Devi, are having three sons, Bali Ram, Shiva & Sonu, and one daughter Gomti. Radha Devi had expired in the year 2018. All the children except Sonu are married. Gomti is married with Mukesh and she is living in her matrimonial home in Rohini, Delhi. Shiva is married with Roshini and having one daughter, Navya. Bali Ram is married with Maneesha (Appellant/Claimant) and having two children, Jatin & Kavya.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. B-12, Golden Park, Ram Pura, Delhi and it comprises of one room on the ground floor and one room & a kuchcha Chappar on the first floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

Ground floor of Jhuggi No. B-12

10. The Appellant/Claimant has stated that her father-in-law Mani Ram along with his unmarried son Sonu is living on the ground floor of the Jhuggi No. B-12 and regarding that DDA has made allotment in favour of her father-in-law Mani Ram. These facts are not disputed by DDA.

Kuchcha Chappar on the first floor of Jhuggi No. B-12

11. The Appellant/Claimant has stated that Shiva along with his wife Roshini and daughter Navya is living in Kuchcha chappar on the first floor of the Jhuggi No. B-12 but he has not sought allotment from DDA against the said chhappar on the first floor of the said Jhuggi No. B-12. These facts are not disputed by DDA.

First floor of Jhuggi No. B-12

12. The Appellant/Claimant has stated that she along with her husband Bali Ram and both the children, Jatin & Kavya, is living in pucca room on the first floor of the said Jhuggi No. B-12. The Appellant/Claimant has sought allotment from DDA against the said pucca room on the first floor but her claim has been rejected by the Eligibility Determination Committee on the ground that she could not produce separate Ration Card in spite of the fact that she has

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claimed allotment from DDA against the upper floor inspite of the fact that she has admittedly sought allotment from DDA against the first floor of the said Jhuggi No. B-12 and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 02-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-F in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. DDA has furnished the survey records along with two video clips of Jhuggi No. B-12. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 22.11.2024 wherein the Appellant/Claimant has stated the first video clip pertains to the Jhuggi No. B-12 in which from outside the Jhuggi No. B-12 is clearly seen to a pucca double storey structure and further an iron ladder is seen placed outside in the gali and it is used for going to the upper floor. Further, her brother-in-law Shiva is seen and getting the survey conducted on the behalf of his father Mani Ram on the ground floor and further the room & kitchen on the ground floor of his father Mani Ram are seen and further Shiva is seen holding a slate in his hand on which **"12 MANI RAM G.F"** is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. B-12 in which Shiva, who is brother-in-law of the present Appellant/Claimant, is seen and getting the survey conducted on the behalf of the present Appellant/Claimant on the first floor and further her room & kitchen on the first floor are seen and furthermore, Shiva is seen holding a slate in his hand on which **"12 MANISHA F.F"** is seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. B-12. The statement of the Appellant/Claimant is duly corroborated by the survey records tendered by DDA as well as the video clips prepared by the survey team and placed on file by DDA and it shows that Jhuggi No. B-12 is a double storey pucca structure and it comprises of one room on the ground floor and one room & a Kuchcha Chappar on the first floor and her father-in-law Mani Ram along with his unmarried son Sonu is living on the ground floor of the Jhuggi No. B-12 and regarding that DDA has made allotment in favour of her father-in-law Mani Ram and her brother-in-law, Shiva, along with his wife Roshni and daughter Navya is living in

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Kuchcha chappar on the first floor of the Jhuggi No. B-12 but he has not sought allotment from DDA against the said chhappar on the first floor of the said Jhuggi No. B-12. Whereas the Appellant/Claimant along with his family is living in the pucca room on the first floor of the said double storey Jhuggi No. B-12. Furthermore, the Appellant/Claimant along with his family is using his Jhuggi on the first floor of the said Jhuggi No. B-12 for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-12 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. B-12 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. B-12 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. B-12 in his favour.

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

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date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Accordingly, there is no illegality in the impugned rejection order bearing No. F01/IEL/ISR/PMAY/DDA/247 dated 11.09.2024.

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

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

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

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

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

list of 12 documents.

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

27. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions

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

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

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

than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

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

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42. It is pointed out that we have already held that the double storey Jhuggi No. B-12 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. B-12 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. B-12 as per the policy guidelines issued by DDA.

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

45. The Appellant/Claimant has categorically stated that she does not possess a Voter ID Card issued on the address of Jhuggi No. B-12 regarding which she has been claiming allotment from DDA and accordingly, the question of her name appearing in the Voter List of the years from 2012 to 2015 does not arise. It is pointed out that the Aadhar Card No. 4122 0712 7038 (Annexure-A) and it has been issued on 28.07.2015, much after the cutoff date 01.01.2015.

46. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. B-12 Golden Park , regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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47. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-12 regarding which she is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. B-12, 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.

48. The Appellant/Claimant has tendered Voter ID Card No. URU 1604189 (Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E) & Driving License (Annexure-F) of her husband Bali Ram in support of her claim.

49. It is pointed out that the Voter ID Card No. URU 1604189 (Annexure-C) of her husband Bali Ram has been issued on 24.08.2013, much prior to the cutoff date 01.01.2015 but the Appellant/Claimant has not tendered any Voter List to show that her husband Bali Ram had used his Voter ID Card No. URU 1604189 (Annexure-C) to cast vote in any of the election and more particularly in the year from 2012 to 2015. The Appellant/Claimant has tendered Aadhar Card No. 5246 6128 7064 (Annexure-D) of her husband Bali Ram and it has been issued 15.10.2011. The Driving License (Annexure-F) of her husband Bali Ram has been issued on 02.01.2014, much prior to the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. B-12 regarding which she has been claiming allotment from DDA, and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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

51. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. B-12 regarding which she has been claiming allotment from DDA, and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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

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There is no infirmity and illegality in the impugned order bearing No. F01/IEL/ISR/PMAY/DDA/247 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

53. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. 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 GOLDEN PARK, RAM PURA, DELHI

Appeal No: 22-GP/2024

Date of Institution: 04.11.2024

Date of Order: 25.02.2025

Present: Appellant/ Claimant Rajesh S/o Phool Chand

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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. 62, Golden Park, Ram Pura, Delhi. A Public Notice by DDA was pasted in the Golden Park to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. 62 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Golden Park, duly communicated its order bearing No. F01/IEL/ISR/PMAY/DDA/310 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 22-GP/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 26.11.2024. 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. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. 62 was found to exist on the first floor but he was found to be minor and further he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"Minor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a 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 the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the Jhuggi No. 62 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Rajesh has been recorded before us on 26.11.2024 wherein he has stated that his parents; Phool Chand & Munni Devi, are having three sons; Rajesh, Kamlesh & Deepak. Deepak is unmarried. Kamlesh is married with Vinita and having one son; Kanishka. Rajesh (Appellant/Claimant) is married with Mini and having one daughter; Mishika.

9. The Appellant/Claimant has stated that his family is having two Jhuggis in Golden Park, Ram Pura, Delhi. One Jhuggis is not bearing any number whereas another Jhuggi is bearing No. 62 and both the Jhuggis are double storey structure.

Ground floor of Jhuggi No. 62

10. The Appellant/Claimant has stated that the Jhuggi No. 62 is a double storey structure and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has stated that his parents; Phool Chand & Munni Devi, along with their unmarried son Deepak are living on the ground floor of the Jhuggi No. 62 whereas the Appellant/Claimant along with his wife Mini and daughter Mishika is living on the first floor of the Jhuggi No. 62 and furthermore, the entire family has been jointly using the another unnumbered Jhuggi. The Appellant/Claimant has stated that DDA has made alternative allotment in favour of his mother Munni Devi regarding the ground floor of the Jhuggi No. 62. These facts are not disputed by DDA.

First floor of Jhuggi No. 62

11. The Appellant/Claimant has stated that he along with his wife Mini and daughter Mishika is living on the first floor of the Jhuggi No. 62 and regarding that the Appellant/Claimant has sought alternative allotment from DDA against the first floor of the Jhuggi No. 62 but his claim was rejected by Eligibility Determination Committee on the ground that he was found to be minor on the cutoff date of 01.01.2015 in spite of the fact that he is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 22-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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12. Here it is also pointed out that the Appellant/Claimant has categorically stated that his date of birth is 01.04.1997 and that has been correctly recorded in his PAN Card (Annexure-C) whereas in the Aadhar Card (Annexure-B) the year of birth is recorded to be 1997 and in the Voter ID Card (Annexure-A) it has been specifically mentioned that his age is 18 years as on 01.01.2016. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that his date of birth is 01.01.1997 and accordingly, he was minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

13. DDA has tendered the survey records along with one video clip pertaining to the Jhuggi No. 62 and the same was played before the Appellant/Claimant when his statement was recorded before us on 26.11.2024 wherein he has stated that the video clip pertains to the Jhuggi No. 62 and from outside, the said Jhuggi is clearly seen to be a double storey structure and an iron ladder is also seen placed outside in the gali and used for going to the upper floor and furthermore, one room on the ground floor and another room on the first floor having roof made with asbestos sheet is seen and furthermore, in the video clip, his mother Munni Devi as well as his wife Mini are seen on the ground floor and further, his mother Munni is heard stating that her sons are living on the upper floor but they are not having separate surveys and the room & kitchen are seen and furthermore, his mother Munni is seen holding a slate in her hand on which **"T-62 MUNNI DEVI G+1"** is seen to have been written. Furthermore, the front wall of the said Jhuggi is seen to be bearing a nameplate on which **"PHOOL CHAND JH. No. 62 GOLDEN PARK RAMPURA ND. 35"** is seen to have been written.

14. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that his family is having two Jhuggis in Golden Park, Ram Pura, Delhi and one Jhuggi is bearing No. 62 whereas the second Jhuggi is unnumbered. The Appellant/Claimant has categorically stated that the unnumbered Jhuggis has been used jointly by the entire family thereby showing that the entire family is living jointly. Here it is also not out of context to point out that in the video clip prepared by the survey team of DDA, the mother of the Appellant/Claimant Munni Devi as well as his wife Mini are seen present on the ground floor

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and also seen getting the survey conducted and this again reflects that the Appellant/Claimant along with his family is living jointly with his parents especially when his mother Munni is heard stating that her sons are living on the upper floor but they are not having separate surveys and furthermore, his mother Munni is seen holding a slate in her hand on which **"T-62 MUNNI DEVI G+1"** is seen to have been written. This shows that his mother Munni Devi has claimed allotment from DDA against the entire double storey Jhuggi No. 62 and that is why she has got the survey conducted of the entire double storey Jhuggi and this is fortified by the facts that his mother Munni is seen holding a slate in her hand on which **"T-62 MUNNI DEVI G+1"** is seen to have been written. This shows that the double storey Jhuggi was single dwelling unit in which the Appellant/Claimant along with his wife Mini and daughter Mishika was living jointly with his parents; Phool Chand & Munni Devi, and furthermore, it is disputed that DDA has already made alternative allotment in favour of his mother Munni Devi against the Jhuggi No. 62 and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment against the first floor of Jhuggi No. 62 because double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA and especially when the Appellant/Claimant has been found to be living jointly with his parents in the said Jhuggi, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. 62 as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. 62 in his favour.

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17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Accordingly, there is no illegality in the impugned rejection order bearing No. F01/IEL/ISR/PMAY/DDA/310 dated 11.09.2024.

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.

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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."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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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."

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate

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

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

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

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

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

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

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

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

41. It is pointed out that we have already held that the double storey Jhuggi was single dwelling unit in which the Appellant/Claimant along with his wife Mini and daughter Mishika was living jointly with his parents; Phool Chand & Munni Devi, and furthermore, it is disputed that DDA has already made alternative allotment in favour of his mother Munni Devi against the Jhuggi No. 62 and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment against the first floor of Jhuggi No. 62 because double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA and especially when the Appellant/Claimant has been found to be living jointly with his parents in the said Jhuggi, and furthermore the Appellant/Claimant has been found to be minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. But despite that the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. 62 as per the policy guidelines issued by DDA.

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43. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

44. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing number URU 1790260 and it has been issued on 05.01.2016, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the year 2012 to 2015 does not arise. Further, his Aadhar Card (Annexure-B) is bearing No. 4030 5457 6223 but the date of issuance is not mentioned therein. Here it is also pointed out that the Appellant/Claimant has categorically stated that his date of birth is 01.04.1997 and that has been correctly recorded in his PAN Card (Annexure-C) whereas in the Aadhar Card (Annexure-B) the year of birth is recorded to be 1997 and in the Voter ID Card (Annexure-A) it has been specifically mentioned that his age is 18 years as on 01.01.2016. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the date of birth is 01.01.1997 and accordingly, he was minor on the cutoff date of 01.01.2015 and accordingly, the question of his having a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise.

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. 62 regarding which he has been claiming allotment from DDA and further his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and furthermore, we have already held that the double storey Jhuggi was single dwelling unit in which the Appellant/Claimant along with his wife Mini and daughter Mishika was living jointly with his parents; Phool Chand & Munni Devi, and furthermore, it is disputed that DDA has already made alternative allotment in favour of his mother Munni Devi against the Jhuggi No. 62 and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment against the first floor of Jhuggi No. 62 because double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA and especially when the Appellant/Claimant has been found to be living jointly with his parents in the said Jhuggi, and furthermore the Appellant/Claimant has been found to be minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise,

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

46. It is also pointed out that the Appellant/Claimant has categorically admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the First Floor of the Jhuggi No. 62, Golden Park, Ram Pura, Delhi, regarding which he is claiming alternative allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. 62, 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.

47. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D) and PAN Card (Annexure-E) of his wife Mini in support of his claim.

48. It is pointed out that the Electricity Bill (Annexure-D) shows that his father Phool Chand had taken the electricity connection on 15.07.2008, but this document is not relevant because the electricity connection was taken by his father Phool Chand on the address of the Jhuggi No. 62, regarding which alternative allotment has already been made in favour of his mother Munni Devi and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant. Further, the PAN Card (Annexure-E) of his wife Mini is also not relevant to determine the eligibility of the Appellant/Claimant. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. 62 regarding which he has been claiming allotment from DDA and further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and moreover the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, and furthermore, we have already held that the double storey Jhuggi was single

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dwelling unit in which the Appellant/Claimant along with his wife Mini and daughter Mishika was living jointly with his parents; Phool Chand & Munni Devi, and furthermore, it is disputed that DDA has already made alternative allotment in favour of his mother Munni Devi against the Jhuggi No. 62 and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment against the first floor of Jhuggi No. 62 because double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA and especially when the Appellant/Claimant has been found to be living jointly with his parents in the said Jhuggi, and furthermore the Appellant/Claimant has been found to be minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

50. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. 62, Golden Park, regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor and furthermore the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. 62 regarding which he has been claiming allotment from DDA and further his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and moreover the Appellant/ Claimant

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was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015, and furthermore, we have already held that the double storey Jhuggi was single dwelling unit in which the Appellant/Claimant along with his wife Mini and daughter Mishika was living jointly with his parents; Phool Chand & Munni Devi, and furthermore, it is disputed that DDA has already made alternative allotment in favour of his mother Munni Devi against the Jhuggi No. 62 and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment against the first floor of Jhuggi No. 62 because double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA and especially when the Appellant/Claimant has been found to be living jointly with his parents in the said Jhuggi, and furthermore the Appellant/Claimant has been found to be minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-E, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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

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F01/IEL/ISR/PMAY/DDA/310 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/RELOCATION OF JJ DWELLERS OF GOLDEN PARK, RAM PURA DELHI

Appeal No: 26-GP/2024

Date of Institution: 04.11.2024

Date of Order: 25.02.2025

Present: Appellant/ Claimant Rakesh Kumar S/o Upender

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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-71 Golden Park, Ram Pura Delhi. A Public Notice by DDA was pasted in the Golden Park to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-71 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

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Officer, Golden Park, duly communicated its order bearing No. F01/IEL/ISR/PMAY/DDA/229 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 26-GP/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 27.11.2024. 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. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-71 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"Voter Card Not *Verified*"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. A-71 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Rakesh Kumar has been recorded before us on 27.11.2024 wherein he has stated that he is married with Sushma Sudha and having two children; Shivansh & Pravi and both the children are unmarried.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. A-71 in Golden Park, Ram Pura and it comprises of one room on each floor and a pucca staircase is constructed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has stated that he along with his wife Sushma Sudha and both the children; Shivansh & Pravi, is living in the Jhuggi No. A-71. The Appellant/Claimant has sought alternative allotment from DDA against the said double storey Jhuggi No. A-71 but his claim has been rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified in spite of the fact that he is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 26-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has tendered the survey records along with one video clip pertaining to the Jhuggi No. A-71 and the same was played before the Appellant/Claimant when his statement was recorded before us on 27.11.2024 wherein he has stated that the video clip pertains to the Jhuggi No. A-71 and from outside, the said Jhuggi is clearly seen to be a double storey structure and a pucca staircase is also seen constructed outside in the gali and used for going to the upper floor and furthermore, one room/kitchen is also seen and the Appellant/Claimant is seen and getting the survey conducted and furthermore, he is seen holding a slate in his hand on which **"A-71 RAKESH KUMAR G+1"** is seen to have been written and furthermore, the front wall of the said Jhuggi is seen to be bearing a nameplate on which **"RAKESH SHAH JH No. A-71 GOLDEN PARK RAMPURA DL- 35"** is seen to have been written.

11. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. A-71 on the cutoff date 01.01.2015 and the Appellant/Claimant using the same for residential purposes.

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12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-71 was in existence in the Golden Park, Ram Pura Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

13. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. A-71 as per the policy guidelines issued by DDA.

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

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

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

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

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

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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runs as under:

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

32. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate

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

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

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

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

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

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

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

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

37. It is pointed out that we have already held that the double storey Jhuggi No. A-71 was in existence in the Golden Park, Ram Pura Delhi. on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

38. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. A-71 as per the policy guidelines issued by DDA.

39. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

40. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing number URU 2320588 and it has been issued on 18.07.2022, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the year 2012 to 2015 does not arise. Further, his Aadhar Card (Annexure-B) is bearing No. 3662 1103 9467 but the date of issuance is not mentioned therein.

41. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.A-71

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Golden Park, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) of his wife Sushma Sudha and the Electricity Bill (Annexure-E) in support of his claim.

43. It is pointed out that the Aadhar Card (Annexure-D) of his wife Sushma Sudha is bearing No. 2056 5360 5608 but the date of issuance is not mentioned therein. Furthermore, it is pointed out that the Appellant/Claimant has not tendered any Voter ID Card of his wife Sushma Sudha to show that she was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-71, Golden Park, regarding which he is claiming allotment from DDA. The material placed on file accordingly shows that neither the Appellant/Claimant nor his wife Sushma Sudha was having a valid Voter ID Card issued on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-71, Golden Park, regarding which the Appellant/Claimant is claiming alternative allotment from DDA and further, their names also do not appear in any of the Voter Lists and more particularly in the years from 2012 to 2015. Further, the Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken the electricity connection on 20.04.2023, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-71 regarding which the Appellant/Claimant is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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

45. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-71, Golden Park, Ram Pura, Delhi regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-E, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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

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F01/IEL/ISR/PMAY/DDA/229 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF KALI BARI, RML HOSPITAL, DELHI

Appeal No: 09-KB/2024

Date of Institution: 30.08.202

Date of Order: 25.02.2025

Present: Appellant/ Claimant Chinta Devi W/o Mool Chand

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 25.07.2024 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. 6R/C-33, Kali Bari, RML Hospital, Delhi. A Public Notice by DDA was pasted in the Kali Bari to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Kali Bari, RML, Delhi. The Appellant/ Claimant has submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 01.12.2023 thereby intimating the dwellers about organizing of a camp by DDA from 26.12.2023 to 29.12.2023 at DDA site office at Kali Bari, RML, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. 6R/C-33 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Kali Bari, RML, Delhi, duly communicated its order bearing No. F2(ISR)RML/22/2023 dated 25.07.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 09-KB/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 10.01.2025. The Appellant/Claimant has also tendered documents, Annexure-A/1, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z18, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA has been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 10.01.2025. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's single storey Jhuggi bearing No. 6R/C-33, Kali Bari, RML, Delhi was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 25.07.2024 whereby the reasons for rejection is mentioned to be **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of

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the present Appellant/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 the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Chinta Devi has been recorded before us on 10.01.2025 wherein she has stated that she is married with Mool Chand having two sons; Rajesh & Raj Kumar, and one daughter; Jyoti. Raj Kumar & Jyoti are unmarried. Rajesh is married with Arti and having one daughter Lakshika. Mool Chand & Chinta Devi along with their unmarried children; Raj Kumar & Jyoti, are living jointly whereas Rajesh along with his family is living separately & independently in another Jhuggi.

9. The Appellant/Claimant has stated that her family was having two Jhuggis in Kali Bari, RML, Delhi and both the Jhuggis were single storey structures and they were situated in different galis (streets) at some distance away from each other but both the Jhuggis happened to be bearing the same number, i.e., Jhuggi No. 6-R, C-33. One of the Jhuggis was having roof made with stone slates whereas the second was having roof made with asbestos sheets.

Jhuggi No. 6R, C-33 - Single Storey Structure having Roof made with Asbestos Sheets

10. The Appellant/Claimant has stated that her son Rajesh along with his wife Arti & daughter Lakshika, was living in the Jhuggi No. 6R, C-33, which was single storey structure & was having roof made with asbestos sheets and regarding that her son Rajesh 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. 11-KB of 2024 before the Appellate Authority and the same is still pending there. These facts are not disputed by DDA.

Jhuggi No. 6R, C-33 – Single Storey Structure having Pucca Roof

11. The Appellant/Claimant has stated that she along with her husband and both the unmarried children; Raj Kumar & Jyoti, was living in the second Jhuggi No. 6R, C-33, which

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was single storey structure & having pucca roof made with stone slates and it comprised of one room & small kitchen. The Appellant/Claimant has sought allotment from DDA against the said single storey pucca Jhuggi bearing No. 6R, C-33, Kali Bari, RML, Delhi but her claim has been rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further her name appears in the Voter List of the years from 2012 to 2015 but not in the year of survey and accordingly, aggrieved by the same, she has filed the present Appeal No. 09-KB of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A/1, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z18, 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. 09-KB of 2024 and Appeal No. 11-KB of 2024 shall be decided separately on their individual merits.

13. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 10.01.2025 wherein he has stated that the Appellant/Claimant, Chinta Devi, has sought alternative allotment form DDA against the single storey Jhuggi No. 6R/C-33, Kali Bari, RML, Delhi but her claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z18) whereby the reasons for rejection is mentioned to be **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"**. Aggrieved by the same, the Appeal No. 09-KB/2024 has been filed by the present Appellant/ Claimant.

GROUND OF REJECTION OF THE CLAIM

14. The material placed on file shows that the Appellant/Claimant Chinta Devi has sought alternative allotment form DDA against the single storey Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi but her claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name does not appear in the voter list of the

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year of survey. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z18) whereby the reasons for rejection is mentioned to be **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid."** but the existence of the single storey Jhuggi of the Appellant/Claimant is not disputed by DDA and aggrieved by the same she has filed the present Appeal No. 09-KB/2024 before the Appellate Authority for redressal.

15. We shall appraise the material placed on file to determine whether the Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. 6R/C-33, which is a single dwelling unit, and then in later part of this order we shall examine whether the Appellant/Claimant is having a valid Voter ID Card and other requisite documents as per the policy guidelines issued by DDA.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 13.02.2024

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 13.02.2024 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F2(ISR)RML/22/2023 dated 25.07.2024 (Annexure-Z18) to the present Appellant/Claimant and the EDC Note dated 13.02.2024 (Annexure-Z17) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 13.02.2024 (Annexure-Z17)

> *"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 01.12.2023 for organising a camp from 26.12.2023 to 29.12.2023 at DDA site office at RM Hospital, New Delhi. wherein to the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite*

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documents in spite of opportunity. As per survey record, ***the applicant jhuggi existed on Ground/Upper floor*** *and the policy guidelines for alternate allotment in cases of Ground floor is as under:*

2. As per policy guidelines, Part –B ***The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under****: - The name of JJ dwellers must appear in at least one of the voter lists of the year's 2012, 2013, 2014, 2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However,* ***name of the applicant appears in voter lists of year 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of the survey, the voter card submitted by the applicant not found valid****.*

3. The applicant/claimant has failed to submit a valid voter ID. card Hence; the applicant/claimant does not fulfill the eligibility criteria. ***The applicant/claimant is found ineligible for alternative allotment****."*

(Remarks - The grammar & formation of the sentences are ignored by this Appellate Authority in reproducing the EDC Note dated 13.02.2024*)*

18. As already pointed out above, the Appellant/Claimant has stated that she along with her husband and both the unmarried children; Raj Kumar & Jyoti, was living in the Jhuggi No. 6R, C-33, which was single storey structure & having pucca roof made with stone slates and it comprised of one room & small kitchen. The Appellant/Claimant has sought allotment from DDA against the said double storey pucca Jhuggi bearing No. 6R, C-33, Kali Bari, RML Hospital, Delhi but her claim was rejected by Eligibility Determination Committee on the grounds that her Voter ID Card could not be verified and further, her name appears in the Voter List of the years from 2012 to 2015 but not in the year of survey and accordingly, aggrieved by the same she has filed the present Appeal No. 09-KB of 2024 before the Appellate Authority for redressal.

19. The Appellant/Claimant has stated that her single storey Jhuggi was bearing number 6R, C-33 but in some of his documents the address is mentioned to be Jhuggi No. 6R, C-33 or C-33/6R or C-33/R06 whereas some documents have been issued on the address of Jhuggi No. C-33/6 or 6/C-33 at different point of time and both the numbers belong to one and the same Jhuggi regarding which he is claiming allotment from DDA. However, due to illiteracy & poverty she could not get the address corrected as it was complicated and requires lot of expenditure.

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20. It is admitted in the course of arguments that there was no proper mechanism to give numbers to the dwelling units/Jhuggis in Jailor Wala Bagh, Ashok Vihar. Pradhan of the respective community had come with an idea to give numbers to the Jhuggis and this was consented by all the dwellers. Therefore, the numbers on almost all the Jhuggis were given by the Pradhan/dwellers of their own without following any settled pattern. The procedure was not streamlined as some of the Jhuggis were given the same numbers. Further in the fire several Jhuggis of Jailor Wala Bagh, Ashok Vihar were destroyed about 20 years ago and the Jhuggis engulfed in the fire were reconstructed and even the numbers of Jhuggis were changed thereby giving new numbers to the freshly re-constructed Jhuggis. This led to changing of Jhuggi numbers in majority of cases and accordingly some of the documents bear old addresses whereas new documents were got issued by the dwellers on the new addresses even though the Jhuggi remained same but it bears different old & new numbers. Furthermore, DDA had conducted survey in different stages spread to long interval and number plates giving the "Names of the owner & Number of the Jhuggis" were affixed. Different survey numbers were given by DDA and video clippings were also prepared. In view of the matter the dwellers cannot be penalized because their Jhuggis bore different numbers at different time or two or more Jhuggis were having same numbers. But it is the prime duty of the EDC as well as this Appellate Authority to appraise the material placed on file in order to determine as to whether the Jhuggis, which happens to be bearing same numbers, are separate & distinct dwelling units or not.

21. Now we shall appraise the other material, namely, survey records & the video clips tendered on file by DDA.

SURVEY RECORDS & VIDEOCLIPS

22. DDA has furnished survey records along with two video clip of two Jhuggis, which happened to be bearing same numbers, i.e., Jhuggi No. 6R/C-33. It is pointed out that the Appellant/Claimant has tendered the Survey Performa (Annexure-Z16) in support of her claim. The bare perusal of the same shows that the survey team had found the single storey Jhuggi No. C-33/R06 of the Appellant/Claimant, to be in existence in Kali Bari, RML Hospital, Delhi and further it has been used for residential purposes because *in* ***"Column No. 4 - Jhuggi Status,*** *the* Jhuggi No. C-33/R06 is mentioned to be ***"Ground"*** and *in* ***"Column No. 5***

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- ***Jhuggi Type,*** *the* Jhuggi No. C-33/R06 is mentioned to be ***"Residential"***. This is a clincher piece of evidence and it shows that DDA has not disputed about the number, identity & nature of the single storey Jhuggi regarding which the Appellant/Claimant has been claiming allotment from DDA because the Jhuggi No. C-33/R06 was found to be single storey structure and used for residential purposes by the survey team of DDA.

23. DDA has furnished survey record along with two video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.01.2025 wherein she has stated that in the first video clip the double storey Jhuggi No. 6R, C-33 having a pucca roof made with stone slates is seen and further, the Appellant/Claimant is seen and getting the survey conducted and her room and small kitchen are seen and further, an iron ladder placed outside in the gali is also seen and furthermore, she is seen holding a slate in her hand on which **"Sr. No. 22 Survey No. 22 Jh. No. C-33/R06 CHINTA DEVI G.F"** is seen to have been written. In the second video clip, the Jhuggi No. 6R, C-33 of her son Rajesh is seen in which the Jhuggi is clearly seen to be a single storey structure having roof made with asbestos sheets and further his room/ kitchen are also seen and further, Rajesh is seen holding a slate in his hand on which **"Sr. No. 34 Survey No. 32 Jh. No. C-33,68 RAJESH G.F"** is seen to have been written.

24. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi 6R/C-33, which were prepared by the survey team of DDA and also played before him when his statement was recorded before us on 10.01.2025 wherein he has stated that in the first video clip the single storey Jhuggi No. 6R, C-33 having a pucca roof made with stone slates is seen and further, the Appellant/Claimant is seen and getting the survey conducted and her room & small kitchen are seen and further, an iron ladder placed outside in the gali is also seen and furthermore, she is seen holding a slate in her hand on which **"Sr. No. 22 Survey No. 22 Jh. No. C-33/R06 CHINTA DEVI G.F"** is seen to have been written.

25. As pointed out above, the Appellant/Claimant has stated that her single storey Jhuggi was bearing number 6R, C-33 but in some of his documents the address is mentioned to be Jhuggi No. 6R, C-33 or C-33/6R or C-33/R06 whereas some documents have been issued on the address of Jhuggi No. C-33/6 or 6/C-33 at different point of time and all the numbers

belong to one & the same Jhuggi regarding which she is claiming allotment from DDA. However, due to illiteracy & poverty she could not get the address corrected as it was complicated and requires lot of expenditure. There is nothing to disbelieve her statement especially when DDA has not disputed the existence of his single storey in Kali Bari, RML Hospital, Delhi regarding which she has been claiming allotment from DDA, therefore, we have no hesitation in holding that giving of different sequence of the number and not mentioning of one word "R" is of no consequence because for that the Appellant/Claimant, who is illiterate & poor, cannot be blamed and accordingly the variation in giving number to his Jhuggi, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 does not mar her entitlement to claim allotment from DDA because all these numbers denotes to one & the same Jhuggi No. 6R/C-33 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA.

26. It is pertinent to point out that as per survey records (Annexure-Z16) the survey was got conducted by the Appellant/Claimant of her single storey Jhuggi No. 6R/C-33 and further the documents tendered by her in support of her claim and the details of her family members are mentioned therein. It shows that the Appellant/Claimant had made representation to DDA to seek allotment from DDA against Jhuggi No. 6R/C-33 and had annexed her documents, namely, Voter ID Card No. DL/01/002/108056 and Aadhar Card No. 9133 0542 2682, thereby, showing that the Appellant/Claimant had not concealed any facts. Furthermore, the Appellant/Claimant had tendered her Voter ID Card No. DL/01/002/108056 (Annexure-A & Annexure-A/1), which has been reflected in the Voter List of the years 2012 to 2019 (Annexure- Z4 to Annexure-Z11) and Aadhar Card No. 9133 0542 2682 dated 30.12.2011 (Annexure-D) when her statements were recorded before us on 10.01.2025 in addition to other documents in support of her claim. The survey records placed on file by DDA further shows that DDA has not disputed about the identity of the single storey Jhuggi Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, in the video clip prepared by the survey team of DDA the single storey Jhuggi No. 6R, C-33 having a pucca roof made with stone slates is seen and further, the Appellant/Claimant is seen and getting the survey conducted and her

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room & small kitchen are seen and further, an iron ladder placed outside in the gali is also seen is and furthermore, she is seen holding a slate in her hand on which **"Sr. No. 22 Survey No. 22 Jh. No. C-33/R06 CHINTA DEVI G.F"** is seen to have been written. This corroborates the statement of the Appellant/Claimant that Jhuggi No. 6R/C-33 is a single storey structure & having pucca roof made with stone slates and it comprised of one room & small kitchen, which are part of same dwelling unit, and used by the Appellant/Claimant & her family for residential purposes. Furthermore, the Appellant/Claimant along with her family is living separately & independently in the said single storey Jhuggi No. 6R/C-33 and regarding that the Appellant/Claimant has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee on the grounds **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** but the existence of the Jhuggi of the Appellant/Claimant is not disputed by DDA and aggrieved by the same she has filed the present Appeal No. 09-KB/2024 before the Appellate Authority for redressal.

27. It is pertinent to point out that the statement of the Appellant/Claimant and the survey records & the video clips annexed thereto shows that the family of the Appellant/Claimant was having two Jhuggis in Kali Bari, RML, Delhi and both the Jhuggis were bearing same numbers, i.e., Jhuggi No. 6R, C-33. Both the Jhuggis were single storey structures and they were situated in different galis (streets) at some distance away from each other. One of the Jhuggis was having roof made with stone slates whereas the second was having roof made with asbestos sheets.

28. The material placed on file shows that Rajesh, who is the son of the Appellant/Claimant, along with his wife Arti & daughter Lakshika was living in the Jhuggi No. 6R, C-33, which was single storey structure & was having roof made with asbestos sheets and regarding that her son Rajesh 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. 11-KB of 2024 before the Appellate Authority. Whereas the present Appellant/Claimant along with her husband and both the unmarried children; Raj Kumar & Jyoti, was living in the second Jhuggi No. 6R, C-33, which was single storey structure &

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having pucca roof made with stone slates and it comprised of one room & small kitchen. The Appellant/Claimant has sought allotment from DDA against the said single storey pucca Jhuggi bearing No. 6R, C-33, Kali Bari, RML, Delhi but her claim was rejected by Eligibility Determination Committee on the ground that her Voter ID Card could not be verified and further her name appears in the Voter List of the years from 2012 to 2015 but not in the year of survey and accordingly, aggrieved by the same, she has filed the present Appeal No. 09-KB of 2024 before the Appellate Authority for redressal. Furthermore, the video clips prepared by the survey team at the time of conducting survey of both the Jhuggis also corroborates the statement of the present Appellant/Claimant that both the Jhuggis have been found to be separate & distinct Jhuggis and situated at some distance away from each other in two different galis (streets).

29. Therefore, the factum of there being two Jhuggis bearing same number, i.e., Jhuggi No. 6R, C-33 is of no consequence. The material placed on file shows that the Appellant/Claimant Chinta Devi was living separately & independently in pucca single storey Jhuggi No. 6R, C-33, which was having pucca roof made with stone slates & it comprised of one room & small kitchen whereas her son Rajesh was living separately & independently in his Jhuggi No. 6R, C-33, which was having roof made with asbestos sheets & it comprised of one room/kitchen and accordingly the Appellant/Claimant Chinta Devi as well as her son Rajesh claiming allotment from DDA against their respective Jhuggis has no direct bearing because the material placed on file shows that both the Jhuggis of Rajesh as well as of the present Appellant/Claimant are separate & distinct dwelling units. It is pointed out that in the EDC Note dated 13.02.2024 (Annexure-Z17) it is no where mentioned that the Appellant/ Claimant has sought allotment from DDA against Jhuggi No. 6R, C-33 of Rajesh or vice versa and also that it was the case of double allotment.

30. Therefore, we have no hesitation in holding that there were two separate & distinct Jhuggis bearing same number i.e., 6R, C-33 in Kali Bari, RML Hospital, Delhi and Furthermore, the survey records & video clips annexed thereto shows location of both the Jhuggis and it clearly shows that both the Jhuggis of Chinta Devi and her son Rajesh are situated at some distance away from each other and further both the Jhuggis even though bearing same number (Jhuggi No. 6R, C-33) are separate & distinct dwelling units.

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31. The survey records placed on file shows that the single storey Jhuggi No 6R/C-33, Kali Bari, RML Hospital, Delhi of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z18) whereby the reasons for rejection is mentioned to be **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid."** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 13.02.2024 (Annexure-Z17) it has been mentioned that the Voter ID Card was not a valid document and further her name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey. The bare perusal of the EDC Note dated dated 13.02.2024 (Annexure-Z17) shows that DDA has not disputed about the existence of the single storey Jhuggi No. 6R/C-33 of the Appellant/ Claimant and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA and accordingly the ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 25.07.2024 (Annexure-Z18) needs to be determined. Here it is pertinent to point that the remarks given in the EDC Note dated dated 13.02.2024 (Annexure-Z17) are self-contradictory because on the one hand it is mentioned that the Voter ID Card of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. Accordingly, we shall appraise the material placed on file to determine whether the Voter ID Card of the Appellant/ Claimant is a valid document or not in the later part of this order because the material placed on file shows that DDA has not disputed about the existence of the said single storey Jhuggi No. 6R/C-33, which is a single dwelling unit regarding which the Appellant/Claimant has claimed alternative allotment from DDA.

32. As per our discussion above, the bare perusal of the EDC Note dated 13.02.2024 (Annexure-Z17) shows that it is no where disputed by DDA as far as the existence of the single storey

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Jhuggi No. 6R/C-33 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified inspite of the fact that her name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit comprising of the single storey Jhuggi No. 6R/C-33 except that she was allegedly not having all the requisite documents.

33. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. 6R/C-33. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the single storey Jhuggi No. 6R/C-33 was in existence in Kali Bari, RML Hospital, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was living in the said single storey Jhuggi No. 6R/C-33, which is a single dwelling unit, and the same has been used by her for residential purposes.

34. Accordingly, we have no hesitation in holding that on the cutoff date of 01.01.2015 the single storey Jhuggi No. 6R/C-33 was in existence in the Kali Bari, RML Hospital, Delhi and the Appellant/Claimant along with her family was living in the said single storey storey Jhuggi No. 6R/C-33 and further the Appellant/Claimant has been using the same for residential purposes on the cutoff date of 01.01.2015 as well as thereafter uptil it was demolished in the year 2024 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit.

GROUND OF REJECTION ON THE GROUND OF "VOTER CARD NOT VERIFIED"

35. Moreover, by taking holistic approach, we shall now appraise the material placed on file to

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determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said single storey Jhuggi No. 6R/C-33 as per the policy guidelines issued by DDA.

36. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A/1, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z18, in support of her claim and prayed that DDA be directed to make allotment in her favour.

37. First of all, we shall discuss the legal position under the DDA 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

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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."

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

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

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

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are claiming alternative allotment against the ground floor or against the first floor.

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

60. It is pointed out that we have already held that that the single storey Jhuggi No. 6R/C-33 was in existence in the Kali Bari, RML Hospital, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was living in the said single storey Jhuggi No. 6R/C-33, which was single dwelling unit, and further the Appellant/Claimant has been using the same for residential purposes on the cutoff date of 01.01.2015 as well as thereafter uptil it was demolished in the year 2024 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

61. It is also pointed out that we have already held that the single storey Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA but her claim was rejected by EDC on 13.02.2024 Annexure-Z17) and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z18) whereby two reasons for rejection are mentioned to be **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid".** However, the grounds of rejection seem

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to be wrongly & erroneously mentioned in the EDC Note dated 13.02.2024 Annexure-Z17) and the Rejection Order dated 25.07.2024 (Annexure-Z18) because it is pertinent to point that the remarks given in the EDC Note dated 13.02.2024 Annexure-Z17) and the Rejection Order dated 25.07.2024 (Annexure-Z18) are self-contradictory in nature because on the one hand it is mentioned that the Voter ID Card of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

62. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi as per the policy guidelines issued by DDA.

63. The Appellant/Claimant has tendered her four Voter ID Cards (Annexure-A, Annexure-A/1, Annexure-B & Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E), the Letter No. F(14)/AC-40/Misc./2024/560 dated 13.11.2024 (Annexure-Z3) issued by AERO, AC-40, New Delhi, Voter List of the year 2012 (Annexure-Z4), Voter List of the year 2013 (Annexure-Z5) Voter List of the year 2014 (Annexure-Z6), Voter List of the year 2015 (Annexure-Z7), Voter List of the year 2016 (Annexure-Z8), Voter List of the year 2017 (Annexure-Z9), Voter List of the year 2018 (Annexure-Z10), Voter List of the year 2019 (Annexure-Z11), Voter List of the year 2020 (Annexure-Z12), Voter List of the year 2021

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(Annexure-Z13), Voter List of the year 2022 (Annexure-Z14) & Voter List of the year 2024 (Annexure-Z15) in support of her claim.

64. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A/1, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z18, in support of her claim. The Appellant/Claimant has tendered her four Voter ID Cards (Annexure-A, Annexure-A/1, Annexure-B & Annexure-C). The first & the second Voter ID Cards are bearing the same number, i.e., Voter ID Card No. DL/01/002/108056. The first Voter ID Card No. DL/01/002/108056 (Annexure-A) has been issued on 11.11.1997 and the second Voter ID Card No. DL/01/002/108056 (Annexure-A/1) has been issued on 26.10.2015. Whereas the third Voter ID Card is bearing No. SJE 2208197 (Annexure-B) and it has been issued on 14.11.2019 and the fourth Voter ID Card is bearing No. SJE 2396570 (Annexure-C) and it has been issued on 13.04.2024. All the four Voter ID Cards have been issued on the address of the Jhuggi No. 6-R, C-33, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA. The Aadhar Card (Annexure-D) is bearing No. 9133 0542 2682 and it has been issued on 30.12.2011. The Letter No. F(14)/AC-40/Misc./2024/560 dated 13.11.2024 issued by AERO, AC-40, New Delhi (Annexure-Z3) shows that the Voter ID Cards Nos. DL/01/002/108056 (Annexure-A & Annexure-B), SJE 2208197 (Annexure-B) & SJE 2396570 (Annexure-C) are mentioned in the records of the Election Commission and these Voter ID Cards (Annexure-A, Annexure-A/1, Annexure-B & Annexure-C) have been reflected in the Voter Lists of the year 2012 to 2022 & 2024 (Annexure-Z4 to Annexure-Z15).

65. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the eligibility criteria on which the EDC has decided the claimant's case as ineligible is that the applicant's name is not verified in the 2023 voter list, which is the year of the survey. In this cluster, the year of the survey was 2023, and the applicant's/claimant's name is not present in the voter list for that year. Therefore, as per DDA's policy, the applicant is not eligible for rehabilitation under the In-Situ Rehabilitation policy. As per the policy guidelines, Part-B, the eligibility criteria for the allotment of alternative dwelling units for the rehabilitation and relocation of JJ dwellers state that "The name of the JJ dweller must

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appear in at least one of the voter lists of the years 2012, 2013, 2014, or 2015 (prior to 01.01.2015) and also in the year of the survey." However, the name of the applicant appears in voter list of year 2012, 2013, 2014 and 2015 but not found in year of the survey. Hence, the applicant does not fulfill the eligibility criteria as per the policy.

66. It is pointed out that the Appellant/Claimant has tendered her four Voter ID Cards (Annexure-A, Annexure-A/1, Annexure-B & Annexure-C). The first & the second Voter ID Cards are bearing same number, i.e., Voter ID Card No. DL/01/002/108056. The first Voter ID Card No. DL/01/002/108056 (Annexure-A) has been issued on 11.11.1997, much prior to the cutoff date of 01.01.2015 and the second Voter ID Card No. DL/01/002/108056 (Annexure-A/1) has been issued on 26.10.2015. Whereas the third Voter ID Card is bearing No. SJE 2208197 (Annexure-B) and it has been issued on 14.11.2019 and the fourth Voter ID Card is bearing No. SJE 2396570 (Annexure-C) and it has been issued on 13.04.2024. The Aadhar Card (Annexure-D) is bearing No. 9133 0542 2682 and it has been issued on 30.12.2011, much prior to the cutoff date of 01.01.2015. All the four Voter ID Cards & Aadhar Card have been issued on the address of the Jhuggi No. 6-R, C-33, Kali Bari, RML Hospital, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA.

67. The Appellant/Claimant has also explained the reasons for having got four Voter ID Cards (Annexure-A, Annexure-A/1, Annexure-B & Annexure-C) issued thereby taking a stand that the Election Commission had withdrawn "DL Series" and in its place a new series was issued in accordingly, the Voter ID Card No. DL/01/002/108056 (Annexure-A & Annexure-A/1) were withdrawn and in its place Voter ID Card No. SJE 2208197 (Annexure-B) was issued in her favour on 14.11.2019. Thereafter, the Election Commission had also withdrawn the "Black and White Series" and in its place new "Coloured Series" was issued and accordingly, the Voter ID Card No. SJE 2208197 (Annexure-B) was withdrawn and in its place Voter ID Card No. SJE 2396570 (Annexure-C) was issued in her favour. There is nothing to disbelieve the statement of the Appellant/Claimant on this aspect. But the fact remains that all the four Voter ID Cards (Annexure-A to Annexure-C) remained to be valid document and have been used by the Appellant/Claimant to cast vote as reflected in the Voter Lists of the years 2012 to 2022 & 2024 (Annexure-Z4 to Annexure-Z15).

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68. As already pointed out above, the first & the second Voter ID Cards (Annexure-A & Annexure-A/1) of the Appellant/Claimant are bearing same number, i.e., Voter ID Card No. DL/01/002/108056. The first Voter ID Card No. DL/01/002/108056 (Annexure-A) has been issued on 11.11.1997, much prior to the cutoff date of 01.01.2015 and the second Voter ID Card No. DL/01/002/108056 (Annexure-A/1) has been issued on 26.10.2015, thereby showing that initially the first Voter ID Card No. DL/01/002/108056 (Annexure-A) was issued on 11.11.1997 and thereafter the duplicate Voter ID Card No. DL/01/002/108056 (Annexure-A/1) was issued on 26.10.2015. Thus the Appellant/Claimant was having a valid Voter ID Cards (Annexure-A & Annexure-A/1) on the cutoff date of 01.01.2015.

69. Further, it is pointed out that the Letter No. F(14)/AC-40/Misc./2024/560 dated 13.11.2024 (Annexure-Z3) issued by AERO, AC-40, New Delhi shows that all the Voter ID Cards Nos. DL/01/002/108056 (Annexure-A & Annexure-A/1), SJE 2208197 (Annexure-B) & SJE 2396570 (Annexure-C) are valid documents as per the records of the Election Commission and these Voter ID Cards (Annexure-A/1, Annexure-A to Annexure-C) have been mentioned in the Voter Lists of the year 2012 to 2022 & 2024 (Annexure-Z4 to Annexure-Z15). Further, the name of the Appellant/Claimant appears at Sl. No. 650 in the Voter List of the year 2012 (Annexure-Z4), at Sl. No. 650 in the Voter List of the year 2013 (Annexure-Z5), at Sl. No. 544 in the Voter List of the year 2014 (Annexure-Z6), at Sl. No. 574 in the Voter List of the year 2015 (Annexure-Z7), at Sl. No. 555 in the Voter List of the year 2016 (Annexure-Z8), at Sl. No. 545 in the Voter List of the year 2017 (Annexure-Z9), at Sl. No. 539 in the Voter List of the year 2018 (Annexure-Z10) & at Sl. No. 552 in the Voter List of the year 2019 (Annexure-Z11) and in all these Voter Lists (Annexure-Z4 to Annexure-Z11), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be DL/01/002/108056 (Annexure-A & Annexure-A/1). This shows that the Voter ID Card No. DL/01/002/108056 dated 11.11.1997 (Annexure-A) and the Voter ID Card No. DL/01/002/108056 dated 26.10.2015 (Annexure-A/1) are valid documents as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the years 2012 to 2019 (Annexure-Z4 to Annexure-Z11).

70. Further, the name of the Appellant/Claimant appears at Sl. No. 595 in the Voter List of the year 2020 (Annexure-Z12), at Sl. No. 574 in the Voter List of the year 2021 (Annexure-Z13),

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at Sl. No. 567 in the Voter List of the year 2022 (Annexure-Z14) and in all these Voter Lists (Annexure-Z12 to Annexure-Z14), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2208197 (Annexure-B). This shows that the Voter ID Card No. SJE 2208197 dated 14.11.2019 (Annexure-B) is also a valid document as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the years 2020 to 2022 (Annexure-Z12 to Annexure-Z14).

71. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1078 in the Voter List of the year 2024 (Annexure-Z15) and in this Voter List (Annexure-Z15), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396570 (Annexure-C). This shows that the Voter ID Card No. SJE 2396570 dated 13.04.2024 (Annexure-C) is also a valid document as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the year 2024 (Annexure-Z15). Moreover, in all the documents (Annexure-A/1, Annexure-A to Annexure-D and Annexure-Z4 to Annexure-Z15) the address of the Appellant/Claimant is mentioned to be 6R, C33, regarding which she is claiming allotments from DDA.

72. It is also pointed out that in the Voter List of the years 2012 to 2022 (Annexure-Z4 to Annexure-Z14) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6R and further it is also specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Moreover, in the Voter List of the years 2024 (Annexure-Z15) the address of the Appellant/Claimant is mentioned to be Jhuggi No. R6, C-33 T - Huts and further in this Voter List it is specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Thus, all the documents (Annexure-A/1, Annexure-A to Annexure-D & Annexure-Z4 to Annexure-Z15) pertain to Jhuggi No. 6R, C-33, regarding which the Appellant/Claimant is claiming allotments from DDA especially when as mentioned above this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA.

73. It is also pointed out that in all the four Voter ID Cards (Annexure-A/1, Annexure-A to Annexure-C) as well as in the Aadhar Card (Annexure-D) the photo of the Appellant/Claimant has been printed thereby establishing the identity of the

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Appellant/Claimant beyond reasonable doubt. Furthermore, issuance of four Voter ID Cards shows that the Appellant/Claimant continued to live in the said single storey Jhuggi No. 6R/C-33, Kali Bari, RML, Delhi from 11.11.1997 (the date of issuance of Voter ID Card No. DL/01/002/108056 -Annexure-A) to 13.04.2024 (the date of issuance of Voter ID Card No. SJE 2396570 - Annexure-C) and further in the Voter Lists of the years 2012 to 2019 (Annexure-Z4 to Annexure-Z11), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be DL/01/002/108056 (Annexure-A & Annexure-A/1) and in the Voter Lists of the years 2020 to 2022 (Annexure-Z12 to Annexure-Z14), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2208197 (Annexure-B) whereas in the Voter List of the year 2024 (Annexure-Z15), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396570 (Annexure-C).

74. Accordingly, we have no hesitation in holding that the first & the second Voter ID Cards (Annexure-A & Annexure-A/1) of the Appellant/Claimant are bearing same number, i.e., Voter ID Card No. DL/01/002/108056. The first Voter ID Card No. DL/01/002/108056 (Annexure-A) has been issued on 11.11.1997, much prior to the cutoff date of 01.01.2015 and the second Voter ID Card No. DL/01/002/108056 (Annexure-A/1) has been issued on 26.10.2015, thereby showing that initially the first Voter ID Card No. DL/01/002/108056 (Annexure-A) was issued on 11.11.1997 and thereafter the duplicate Voter ID Card No. DL/01/002/108056 (Annexure-A/1) was issued on 26.10.2015. Thus the Appellant/Claimant was having a valid Voter ID Cards (Annexure-A & Annexure-A/1) on the cutoff date of 01.01.2015. The Appellant/Claimant has also explained the reasons for having got four Voter ID Cards (Annexure-A, Annexure-A/1, Annexure-B & Annexure-C) issued thereby taking a stand that the Election Commission had withdrawn "DL Series" and in its place a new series was issued in accordingly, the Voter ID Card No. DL/01/002/108056 (Annexure-A & Annexure-A/1) were withdrawn and in its place Voter ID Card No. SJE 2208197 (Annexure-B) was issued in her favour on 14.11.2019. Thereafter, the Election Commission had also withdrawn the "Black and White Series" and in its place new "Coloured Series" was issued and accordingly, the Voter ID Card No. SJE 2208197 (Annexure-B) was withdrawn and in its place Voter ID Card No. SJE 2396570 (Annexure-C) was issued in her favour. The material placed on file shows that all the four Voter ID Cards (Annexure-A/1, Annexure-A to Annexure-C) remained to be valid documents and have

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been used by the Appellant/Claimant to cast vote as reflected in the Voter Lists of the years 2012 to 2022 & 2024 (Annexure-Z4 to Annexure-Z15). Further, it is pointed out that the Letter No. F(14)/AC-40/Misc./2024/560 dated 13.11.2024 (Annexure-Z3) issued by AERO, AC-40, New Delhi shows that all the Voter ID Cards Nos. DL/01/002/108056 (Annexure-A & Annexure-A/1), SJE 2208197 (Annexure-B) & SJE 2396570 (Annexure-C) are valid documents as per the records of the Election Commission and these Voter ID Cards (Annexure-A/1, Annexure-A to Annexure-C) have been mentioned in the Voter Lists of the year 2012 to 2022 & 2024 (Annexure-Z4 to Annexure-Z15). Further, the name of the Appellant/Claimant appears at Sl. No. 650 in the Voter List of the year 2012 (Annexure-Z4), at Sl. No. 650 in the Voter List of the year 2013 (Annexure-Z5), at Sl. No. 544 in the Voter List of the year 2014 (Annexure-Z6), at Sl. No. 574 in the Voter List of the year 2015 (Annexure-Z7), at Sl. No. 555 in the Voter List of the year 2016 (Annexure-Z8), at Sl. No. 545 in the Voter List of the year 2017 (Annexure-Z9), at Sl. No. 539 in the Voter List of the year 2018 (Annexure-Z10) & at Sl. No. 552 in the Voter List of the year 2019 (Annexure-Z11) and in all these Voter Lists (Annexure-Z4 to Annexure-Z11), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be DL/01/002/108056 (Annexure-A & Annexure-A/1). This shows that the Voter ID Card No. DL/01/002/108056 dated 11.11.1997 (Annexure-A) and the Voter ID Card No. DL/01/002/108056 dated 26.10.2015 (Annexure-A/1) are valid documents as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the years 2012 to 2019 (Annexure-Z4 to Annexure-Z11). Further, the name of the Appellant/Claimant appears at Sl. No. 595 in the Voter List of the year 2020 (Annexure-Z12), at Sl. No. 574 in the Voter List of the year 2021 (Annexure-Z13) & at Sl. No. 567 in the Voter List of the year 2022 (Annexure-Z14) and in all these Voter Lists (Annexure-Z12 to Annexure-Z14), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2208197 (Annexure-B). This shows that the Voter ID Card No. SJE 2208197 dated 14.11.2019 (Annexure-B) is also a valid document as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the years 2020 to 2022 (Annexure-Z12 to Annexure-Z14). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1078 in the Voter List of the year 2024 (Annexure-Z15) and in this Voter List (Annexure-Z15), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396570 (Annexure-C). This shows that

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the Voter ID Card No. SJE 2396570 dated 13.04.2024 (Annexure-C) is also a valid document as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the year 2024 (Annexure-Z15). Moreover, in all the documents (Annexure-A/1, Annexure-A to Annexure-D and Annexure-Z4 to Annexure-Z15) the address of the Appellant/Claimant is mentioned to be 6R, C33, regarding which she is claiming allotments from DDA. It is also pointed out that in the Voter List of the years 2012 to 2022 (Annexure-Z4 to Annexure-Z14) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6R and further it is also specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Moreover, in the Voter List of the years 2024 (Annexure-Z15) the address of the Appellant/Claimant is mentioned to be Jhuggi No. R6, C-33 T - Huts and further in this Voter List it is specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Thus, all the documents (Annexure-A/1, Annexure-A to Annexure-D & Annexure-Z4 to Annexure-Z15) pertain to Jhuggi No. 6R, C-33, regarding which the Appellant/Claimant is claiming allotments from DDA especially when as mentioned above this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA. Therefore, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant was having valid Voter ID Card & Aadhar Card issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML Hospital, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and further the name of the Appellant/ Claimant appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 but these facts were ignored by the EDC.

75. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because her name does not appear in the voter list of the year of survey, i.e., 2023 (because as per the Survey Performa (Annexure-Z16) placed on file survey/videography was conducted in the year 2023) even though she was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also continuously appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024.

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76. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

(iv) in any year if such revision has been directed by the Election Commission.

77. It is pointed out that the Voter List of the years 2023 was not prepared by the Election Commission. Therefore, the reasons for not tendering the Voter List of the year of survey, i.e., 2023 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the year of survey, i.e., 2023 when it was not prepared/ available with the Election Commission.

78. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains his Voter ID Card on 18.10.2008, before the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 but their name happened to be not appearing in the Voter List of the year 2023 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter List of the year of survey, i.e., 2023 even though they possess all the relevant documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 and further all these documents in unequivocal terms shows that they have been continuing living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual

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physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having the Voter List of the year 2023 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the voter list of the year 2023 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No. DL/01/002/108056 (Annexure-A & Annexure-A/1), which have been issued on the address of Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi regarding which she is claiming allotment from DDA. The Appellant/Claimant is also having another valid Voter ID Card No. SJE 2208197 dated 14.11.2019 (Annexure-B) & Voter ID Card No. SJE 2396570 dated 13.04.2024 (Annexure-C) and the Aadhar Card No. 9133 0542 2682 (Annexure-D), which have also been issued on the address of the Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi, regarding which she is claiming allotment from DDA. The material placed on file shows that all the four Voter ID Cards (Annexure-A to Annexure-C) remained to be valid documents and have been used by the Appellant/Claimant to cast vote as reflected in the Voter Lists of the years 2012 to 2022 & 2024 (Annexure-Z4 to Annexure-Z15). Further, it is pointed out that the Letter No. F(14)/AC-40/Misc./2024/560 dated 13.11.2024 (Annexure-Z3) issued by AERO, AC-40, New Delhi shows that all the Voter ID Cards Nos. DL/01/002/108056 (Annexure-A & Annexure-A/1), SJE 2208197 (Annexure-B) & SJE 2396570 (Annexure-C) are valid documents as per the records of the Election Commission and these Voter ID Cards (Annexure-A/1, Annexure-A to Annexure-C) have been reflected in the Voter Lists of the year 2012 to 2022 & 2024 (Annexure-Z4 to Annexure-Z15). Further, the name of the Appellant/Claimant appears at Sl. No. 650 in the Voter List of the year 2012 (Annexure-Z4), at Sl. No. 650 in the Voter List of the year 2013 (Annexure-Z5), at Sl. No. 544 in the Voter List of the year 2014 (Annexure-Z6), at Sl. No. 574 in the Voter List of the year 2015 (Annexure-Z7), at Sl. No. 555 in the Voter List of the year 2016 (Annexure-Z8), at Sl. No. 545 in the Voter List of the year 2017 (Annexure-Z9), at Sl. No. 539 in the Voter List of the year 2018 (Annexure-Z10) & at Sl. No. 552 in the Voter List of the year 2019 (Annexure-Z11) and in all these Voter Lists (Annexure-Z4 to Annexure-Z11), the number of the Voter

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ID Card of the Appellant/Claimant is mentioned to be DL/01/002/108056 (Annexure-A & Annexure-A/1). This shows that the Voter ID Card No. DL/01/002/108056 dated 11.11.1997 (Annexure-A) and the Voter ID Card No. DL/01/002/108056 dated 26.10.2015 (Annexure-A/1) are valid documents as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the years 2012 to 2019 (Annexure-Z4 to Annexure-Z11). Further, the name of the Appellant/Claimant appears at Sl. No. 595 in the Voter List of the year 2020 (Annexure-Z12), at Sl. No. 574 in the Voter List of the year 2021 (Annexure-Z13) & at Sl. No. 567 in the Voter List of the year 2022 (Annexure-Z14) and in all these Voter Lists (Annexure-Z12 to Annexure-Z14), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2208197 (Annexure-B). This shows that the Voter ID Card No. SJE 2208197 dated 14.11.2019 (Annexure-B) is also a valid document as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the years 2020 to 2022 (Annexure-Z12 to Annexure-Z14). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1078 in the Voter List of the year 2024 (Annexure-Z15) and in this Voter List (Annexure-Z15), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396570 (Annexure-C). This shows that the Voter ID Card No. SJE 2396570 dated 13.04.2024 (Annexure-C) is also a valid document as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the year 2024 (Annexure-Z15). On the other hand, the issuance of four Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi from 11.11.1997 (the date of issuance of the first Voter ID Card No. DL/01/002/108056 - Annexure-A) to 13.04.2024 (the date of issuance of the fourth Voter ID Card No. SJE 2396570 - Annexure-C) and even till the said Jhuggi was demolished in the year 2024. Moreover, in all the documents (Annexure-A/1, Annexure-A to Annexure-D and Annexure-Z4 to Annexure-Z15) the address of the Appellant/Claimant is mentioned to be 6R, C33, regarding which she is claiming allotments from DDA. It is also pointed out that in the Voter List of the years 2012 to 2022 (Annexure-Z4 to Annexure-Z14) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6R and further it is also specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Moreover, in the Voter List of the years 2024 (Annexure-Z15) the address of the Appellant/Claimant is mentioned to be Jhuggi No. R6, C-33 T - Huts and further in this Voter List it is specifically mentioned

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that it pertain to C-33, T – Huts, Kali Bari. Thus, all the documents (Annexure-A/1, Annexure-A to Annexure-D & Annexure-Z4 to Annexure-Z15) pertain to Jhuggi No. 6R, C-33, regarding which the Appellant/Claimant is claiming allotment from DDA especially when as mentioned above this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA. Therefore, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant was having a valid Voter ID Card & Aadhar Card issued on the address of Jhuggi No. C-33/R-06, Kali Bari, RML Hospital, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and further the name of the Appellant/ Claimant appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 but these facts were ignored by the EDC.

79. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate his residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

80. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

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"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."

"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple

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records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

81. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

82. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having a valid Voter ID Card on the cutoff date of 01.01.2015 & also a Aadhar Card and further she possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then her claim can not be rejected by taking hyper technical view especially when the Appellant/Claimant was having a valid Voter ID Card No. DL/01/002/108056 dated 11.11.1997 (Annexure-A) on the cutoff date of 01.01.2015 and further another valid Voter ID Card Nos. DL/01/002/108056 dated 26.10.2015 (Annexure-A/1), SJE 2208197 dated 14.11.2019 (Annexure-B), SJE 2396570 dated 13.04.2024 (Annexure-C) & the Aadhar Card No. 9133 0542 2682 dated 30.12.2021 (Annexure-D) and further her name also appears continuously in the Voter Lists from the years 2012 to 2022 & 2024 (Annexure-Z4 to Annexure-Z15) and all the documents (Annexure-A/1, Annexure-A to Annexure-D and Annexure-Z4 to Annexure-Z15) have been issued on the address of Jhuggi No. C-33/R-6, Kali Bari, RML Hospital, Delhi regarding which

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she is claiming allotment from DDA and further she as well her family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

83. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having valid Voter ID Cards (Annexure-A & Annexure-A/1) on the cutoff date of 01.01.2015 & another Voter ID Cards (Annexure-B & Annexure-C) and a Aadhar Card (Annexure-D) and further her name also appears in the voter list of the year's 2012, 2013, 2014 & 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 (Annexure- Annexure-Z4 to Annexure-Z15) and further the reasons for her name having not reflected in the Voter List of the year of survey (2023) has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds for rejection, namely, **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid"** communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z18) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority and consequently, the EDC Note dated 13.02.2024 (Annexure-Z17) and also the Rejection Order dated 25.07.2024 (Annexure-Z18) are not sustainable being erroneous, wrong and against the facts.

84. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. C-33/R-6, Kali Bari, RML Hospital, Delhi since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lend support to the claim put forward by the Appellant/Claimant.

85. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-F & Annexure-G), Aadhar Card (Annexure-H), ID Card issued by Delhi Administration (Annexure-I), Rashtriya Swasthya Beema Yojna Card (Annexure-J), PAN Card (Annexure-K) & Passbook of Bank of India (Annexure-X) of her husband Mool Chand, as well as the Voter ID Card (Annexure-L), Aadhar Card (Annexure-M), PAN Card (Annexure-N), School Certificate (Annexure-S) &

Passbook of Bank of India (Annexure-Y) of her son Raj Kumar and the two Voter ID Cards (Annexure-O & Annexure-P), Aadhar Card (Annexure-Q), PAN Card (Annexure-R), School Certificate (Annexure-T) & Passbook of Bank of India (Annexure-Z) of her daughter Jyoti and also the Gas Connection Record (Annexure-U), Electricity Bill (Annexure-V), Passbook of Bank of India (Annexure-W), Ration Card (Annexure-Z1) & Internet Report (Annexure-Z2) as well as the Letter No. F(14)/AC-40/Misc./2024/560 dated 13.11.2024 (Annexure-Z3) issued by AERO, AC-40, New Delhi, Voter List of the year 2012 (Annexure-Z4), Voter List of the year 2013 (Annexure-Z5) Voter List of the year 2014 (Annexure-Z6), Voter List of the year 2015 (Annexure-Z7), Voter List of the year 2016 (Annexure-Z8), Voter List of the year 2017 (Annexure-Z9), Voter List of the year 2018 (Annexure-Z10), Voter List of the year 2019 (Annexure-Z11), Voter List of the year 2020 (Annexure-Z12), Voter List of the year 2021 (Annexure-Z13), Voter List of the year 2022 (Annexure-Z14) and Voter List of the year 2024 (Annexure-Z15) in support of her claim.

86. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Gas Connection Record (Annexure-U) shows that her husband Mool Chand has taken the connection on 28.05.2012, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-V) shows that her husband Mool Chand had taken the connection but the date of energization is not mentioned therein but in this Bill (Annexure-U), the due date is mentioned to be 17.01.2013 thereby showing that the electricity connection had been taken much prior to the cut off date of 01.01.2015. The Appellant/Claimant has tendered the Ration card No. 077001141906 (Annexure-Z-1) and it has been issued in favour of the Appellant/Claimant and the name of her husband and children are mentioned but the date of issuance is not mentioned in this document. Further, the Internet Report (Annexure-Z-2) pertaining to the Ration Card downloaded from the internet shows that the Appellant/Claimant had applied for issuance of a Ration Card on 24.08.2013 and it was approved by the competent authority on 09.05.2014, much prior to the cut off date of 01.01.2015.

DOCUMENTS OF MOOL CHAND (Husband of the Appellant/Claimant)

87. It is pertinent to point out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-F & Annexure-G) of her husband. The first Voter ID Card (Annexure-F) is bearing

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No. SJE 0176420 and it has been issued on 18.10.2008, much prior to the cutoff date of 01.01.2015 whereas the second Voter ID Card bearing No. SJE 2434801 and it has been issued on 27.07.2024. The Aadhar Card is bearing No. 2743 3779 5236 (Annexure-H) and it has been issued on 30.12.2011, much prior to the cutoff date of 01.01.2015. The ID Card issued by Delhi Administration (Annexure-I) has been issued in favour of her husband Mool Chand but the date of issuance is not mentioned therein. The Rashtriya Swasthhya Beema Yojna Card (Annexure-J) has been issued in favour of her husband in May 2008, much prior to the cutoff date of 01.01.2015. The Passbook of Bank of India (Annexure-X) shows that her husband Mool Chand has opened the account on 06.08.2012, much prior to the cutoff date of 01.01.2015. Further, the name of her husband Mool Chand appears at Sl. No. 649 in the Voter List of the year 2012 (Annexure-Z4), at Sl. No. 649 in the Voter List of the year 2013 (Annexure-Z5), at Sl. No. 543 in the Voter List of the year 2014 (Annexure-Z6), at Sl. No. 573 in the Voter List of the year 2015 (Annexure-Z7), at Sl. No. 554 in the Voter List of the year 2016 (Annexure-Z8), at Sl. No. 544 in the Voter List of the year 2017 (Annexure-Z9), at Sl. No. 538 in the Voter List of the year 2018 (Annexure-Z10), at Sl. No. 551 in the Voter List of the year 2019 (Annexure-Z11), at Sl. No. 594 in the Voter List of the year 2020 (Annexure-Z12), at Sl. No. 573 in the Voter List of the year 2021 (Annexure-Z13) & at Sl. No. 566 in the Voter List of the year 2022 (Annexure-Z14) and in all these Voter Lists (Annexure-Z4 to Annexure-Z14), the number of the Voter ID Card of Mool Chand is mentioned to be SJE 0176420 (Annexure-F). This shows that the Voter ID Card No. SJE 0176420 dated 18.10.2008 (Annexure-F) and the Voter ID Card No. SJE 2434801 dated 27.07.2024 (Annexure-F) are valid documents as per the records of the Election Commission and further the Voter ID Card No. SJE 0176420 dated 18.10.2008 (Annexure-F) is reflected in the Voter List of the years 2012 to 2022 (Annexure-Z4 to Annexure-Z14). On the other hand, the issuance of two Voter ID Cards of Mool Chand, who is the husband of the Appellant/Claimant, shows that the Appellant/Claimant & her family, has been continuously living in Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi from 18.10.2008 (the date of issuance of the first Voter ID Card No. SJE 0176420 - Annexure-F) to 27.07.2024 (the date of issuance of the second Voter ID Card No. SJE 2434801 - Annexure-G) and even till the said Jhuggi was demolished in the year 2024. Further, in all these documents (Annexure-F to Annexure-I, Annexure-X and Annexure-Z4 to Annexure-Z14) the address of the Mool

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Chand is mentioned to be 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA.

DOCUMENTS OF RAJ KUMAR (son of the Appellant/Claimant)

88. It is pertinent to point out that the Appellant/Claimant has tendered the Voter ID Card No. SJE 1975142 (Annexure-L) of her son Raj Kumar and it has been issued on 20.11.2015 and his Aadhar Card is bearing No. 6439 9203 3652 (Annexure-M) and it has been issued on 30.07.2011, much prior to the cutoff date of 01.01.2015. The School Certificate (Annexure-S) of her son Raj Kumar shows that in the Academic Session of 2013-2014 he was studying in Atal Adarsh Bal Vidyalaya, Mandir Marg, New Delhi and in the School Records, his address is recorded to be 6R, C-33, Kali Bari, RML, Delhi, regarding which the Appellant/Claimant is claiming allotment from DDA. The Passbook of Bank of India (Annexure-Y) shows that her son Raj Kumar has opened the account on 08.12.2012, much prior to the cutoff date of 01.01.2015. Further, in all these documents (Annexure-L, Annexure-M, Annexure-S & Annexure-Y) the address of Raj Kumar is mentioned to be 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA.

DOCUMENTS OF JYOTI (daughter of the Appellant/Claimant)

89. It is pertinent to point out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-O & Annexure-P) of her daughter Jyoti. The first Voter ID Card No. SJE 1521863 (Annexure-O) has been issued on 24.03.2011, much prior to the cutoff date of 01.01.2015 whereas the second Voter ID Card is bearing No. SJE 2396612 (Annexure-P) and it has been issued on 13.04.2024 and her Aadhar Card is bearing No. 6709 3763 0754 (Annexure-Q) but the date of issuance is not mentioned therein. The School Certificate (Annexure-T) of her daughter Jyoti shows that in the Academic Session from 01.07.2011 to Feb 2013 she was studying in Atal Adarsh Balika Vidyalaya, Mandir Marg, New Delhi and in the School Records, her address is recorded to be 6R, C-33, Kali Bari, RML, Delhi regarding which the Appellant/Claimant is claiming allotment from DDA. The Passbook of Bank of India (Annexure-Z) shows that her daughter Jyoti has opened the account on 16.09.2011, much prior to the cutoff date of 01.01.2015. Further, the name of her daughter Jyoti appears at Sl. No. 651 in the Voter List of the year 2012 (Annexure-Z4), at Sl. No. 651 in the Voter List of the year 2013 (Annexure-Z5), at Sl. No. 545 in the Voter List of the year 2014 (Annexure-

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Z6), at Sl. No. 575 in the Voter List of the year 2015 (Annexure-Z7), at Sl. No. 556 in the Voter List of the year 2016 (Annexure-Z8), at Sl. No. 546 in the Voter List of the year 2017 (Annexure-Z9), at Sl. No. 540 in the Voter List of the year 2018 (Annexure-Z10), at Sl. No. 553 in the Voter List of the year 2019 (Annexure-Z11), at Sl. No. 596 in the Voter List of the year 2020 (Annexure-Z12), at Sl. No. 575 in the Voter List of the year 2021 (Annexure-Z13) & at Sl. No. 568 in the Voter List of the year 2022 (Annexure-Z14) and in all these Voter Lists of the year 2012 to 2022 (Annexure-Z4 to Annexure-Z14), the number of the Voter ID Card of Jyoti is mentioned to be SJE 1521863 (Annexure-O). Further, her name appears at Sl. No. 1079 in the Voter List of the year 2024 (Annexure-Z15) and in this Voter List the number of the Voter ID Card of Jyoti is mentioned to be SJE 2396612 (Annexure-P). This shows that the Voter ID Card No. SJE 1521863 dated 24.03.2011 (Annexure-O) and the Voter ID Card No. SJE 2396612 dated 13.04.2024 (Annexure-P) are valid documents as per the records of the Election Commission and further the Voter ID Card No. SJE 1521863 dated 24.03.2011 (Annexure-O) is reflected in the Voter List of the years 2012 to 2022 (Annexure-Z4 to Annexure-Z14) and the Voter ID Card No. SJE 2396612 dated 13.04.2024 (Annexure-P) is reflected in the Voter List of the year 2024 (Annexure-Z15). On the other hand, the issuance of two Voter ID Cards of Jyoti, who is the daughter of the Appellant/Claimant, shows that the Appellant/Claimant & her family has been continuously living in Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi from 24.03.2011 (the date of issuance of the first Voter ID Card No. SJE 1521863 - Annexure-O) to 13.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2396612 - Annexure-P) and even till the said Jhuggi was demolished in the year 2024. Further, in all these documents (Annexure-O to Annexure-Q, Annexure-T, Annexure-Z and Annexure-Z4 to Annexure-Z15) the address of Jyoti is mentioned to be 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA.

MISC. DOCUMENTS of the Appellant/Claimant & family members

90. It is also pointed out that the Passbook of Bank of India (Annexure-W) shows that the Appellant/Claimant has opened the account on 19.04.2003, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA. The Gas Connection Record

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(Annexure-U) shows that her husband Mool Chand has taken the connection on 28.05.2012, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA. The Electricity Bill (Annexure-V) shows that her husband Mool Chand had taken the connection on 17.01.2013, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration card No. 077001141906 (Annexure-Z1) and it has been issued in favour of the Appellant/Claimant on the address of Jhuggi No. 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA and the name of her husband and children are mentioned but the date of issuance is not mentioned in this document. Further, the Internet Report (Annexure-Z2) pertaining to the Ration Card downloaded from the internet shows that the Appellant/Claimant had applied for issuance of a Ration Card on 24.08.2013 and it was approved by the competent authority on 09.05.2014, much prior to the cutoff date of 01.01.2015.

91. Further, it is pointed out that all these documents (Annexure-A/1, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-15) have been issued on the address of the Jhuggi No. 6R, C33, regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, all these documents shows that the Appellant/Claimant as well as her family members are having their respective Voter ID Cards, Aadhar Cards as well as they are also maintaining Bank accounts and also having School Records, Health Card, Gas Connection Record, Electricity Bill, ID Card & Ration Card and it corroborates that the Appellant/Claimant along with her family have been living jointly in the said single storey Jhuggi No. 6R/C-33, Kali Bari, RML, Delhi. Furthermore, the ID Card issued by Delhi Administration, Rashtriya Swasthya Beema Yojna Card, School Records, Gas Connection Record, Electricity Bill, Bank Passbooks & Ration Card are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015.

92. The Appellant/Claimant has tendered her documents and also of her family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Electricity Bill, Gas Connection Records, ID Card, Bank Passbook and Ration Card etc. and all these documents have been issued from 1997 to 2024 and it accordingly amply establishes that she as well as his family

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members have been living jointly in the single storey Jhuggi No. 6R, C33, Kali Bari, RML Hospital, Delhi, since long and more particularly on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015 and till the said Jhuggi was demolished in the year 2024. The material placed on file shows that the ID Card issued by Delhi Administration (Annexure-I), Rashtriya Swasthya Beema Yojna Card (Annexure-J), School Records (Annexure-S & Annexure-T), Gas Connection Record (Annexure-U), Electricity Bill (Annexure-V), Bank Passbooks (Annexure-W to Annexure-Z) & Ration Card (Annexure-Z1), are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

93. In view of the matter as per our discussion above, the material placed on file supports the claim of the Appellant/ Claimant and shows that the Appellant/ Claimant fulfils the eligibility criteria as per the policy guidelines issued by DDA as under: -

(a) The material placed on file shows that the Appellant/Claimant on the cutoff date of 01.01.2015 along with her family had been using the Jhuggi No. 6R, C33, Kali Bari, RML Hospital, Delhi, which constitute single dwelling unit, for residential purposes and the facts cannot be lost sight that this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA and further as per our discussion above, the documents, Annexure-A1, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z18, shows that the Appellant/Claimant has tendered her four Voter ID Cards (Annexure-A, Annexure-A/1, Annexure-B & Annexure-C). The first & the second Voter ID Cards are bearing same number, i.e., Voter ID Card No. DL/01/002/108056. The first Voter ID Card No. DL/01/002/108056 (Annexure-A) has been issued on 11.11.1997, much prior to the cutoff date of 01.01.2015 and thereafter the duplicate Voter ID Card No. DL/01/002/108056 (Annexure-A/1) was issued on 26.10.2015. Thus the Appellant/Claimant was having a valid Voter ID Cards (Annexure-A & Annexure-A/1) on the cutoff date of 01.01.2015. Further, the third Voter ID Card is bearing No. SJE 2208197 (Annexure-B) and it has been issued on 14.11.2019 and the fourth Voter ID

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Card is bearing No. SJE 2396570 (Annexure-C) and it has been issued on 12.04.2024. All the four Voter ID Cards have been issued on the address of the Jhuggi No. 6-R, C-33, Kali Bari, RML, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and further DDA has not challenged the validity of these Voter ID Cards. The Aadhar Card No. 9133 0542 2682 (Annexure-D) of the Appellant/Claimant has been issued on 30.12.2011, much prior to the cutoff date of 01.01.2015 and it has been issued on the address of the Jhuggi No. 6R, C33, Kali Bari, RML, Delhi, regarding which she is claiming allotment from DDA. Further, the Appellant/Claimant has explained the reasons for having four Voter ID Cards (Annexure-A/1, Annexure-A to Annexure-C) at different point of time. Further all the four Voter ID Cards (Annexure-A/1 & Annexure-A to Annexure-C) remained to be valid documents and have been used by the Appellant/Claimant to cast vote as reflected in the Voter Lists of the years 2012 to 2022 & 2024 (Annexure-Z4 to Annexure-Z15).

(b) The material placed on file shows that the Letter No. F(14)/AC-40/Misc./2024/560 dated 13.11.2024 (Annexure-Z3) issued by AERO, AC-40, New Delhi shows that all the Voter ID Cards Nos. DL/01/002/108056 (Annexure-A & Annexure-A/1), SJE 2208197 (Annexure-B) & SJE 2396570 (Annexure-C) are valid documents as per the records of the Election Commission and these Voter ID Cards (Annexure-A/1, Annexure-A to Annexure-C) have been reflected in the Voter Lists of the year 2012 to 2022 & 2024. Further, the name of the Appellant/Claimant appears at Sl. No. 650 in the Voter List of the year 2012 (Annexure-Z4), at Sl. No. 650 in the Voter List of the year 2013 (Annexure-Z5), at Sl. No. 544 in the Voter List of the year 2014 (Annexure-Z6), at Sl. No. 574 in the Voter List of the year 2015 (Annexure-Z7), at Sl. No. 555 in the Voter List of the year 2016 (Annexure-Z8), at Sl. No. 545 in the Voter List of the year 2017 (Annexure-Z9), at Sl. No. 539 in the Voter List of the year 2018 (Annexure-Z10) & at Sl. No. 552 in the Voter List of the year 2019 (Annexure-Z11) and in all the Voter Lists (Annexure-Z4 to Annexure-Z11), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be DL/01/002/108056 (Annexure-A & Annexure-A/1). This shows that the Voter ID Card No. DL/01/002/108056 dated 11.11.1997 (Annexure-A/1) and the Voter ID Card No. DL/01/002/108056 dated 26.10.2015 (Annexure-A) are valid documents as per the records of the Election Commission and further this Voter ID Card

No. DL/01/002/108056 is reflected in the Voter List of the years 2012 to 2019 (Annexure-Z4 to Annexure-Z11).

(c) The material placed on file shows that the name of the Appellant/Claimant appears at Sl. No. 595 in the Voter List of the year 2020 (Annexure-Z12), at Sl. No. 574 in the Voter List of the year 2021 (Annexure-Z13) & at Sl. No. 567 in the Voter List of the year 2022 (Annexure-Z14) and in all these Voter Lists (Annexure-Z12 to Annexure-Z14), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2208197 (Annexure-B). This shows that the Voter ID Card No. SJE 2208197 dated 14.11.2019 (Annexure-B) is a valid document as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the years 2020 to 2022 (Annexure-Z12 to Annexure-Z14).

(d) The material placed on file shows that the name of the Appellant/Claimant appears at Sl. No. 1078 in the Voter List of the year 2024 (Annexure-Z15) and in this Voter List (Annexure-Z15), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396570 (Annexure-C). This shows that the Voter ID Card No. SJE 2396570 dated 13.04.2024 (Annexure-C) is a valid document as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the year 2024 (Annexure-Z15).

(e) The material placed on file shows that in the Voter List of the years 2012 to 2022 (Annexure-Z4 to Annexure-Z14) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6R and further it is also specifically mentioned that it pertains to C-33, T – Huts, Kali Bari. Moreover, in the Voter List of the years 2024 (Annexure-Z15) the address of the Appellant/Claimant is mentioned to be Jhuggi No. R6, C-33 T - Huts and further in this Voter List it is specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Thus, all the documents (Annexure-A/1, Annexure-A to Annexure-D & Annexure-Z4 to Annexure-Z15) pertain to Jhuggi No. 6R, C-33, regarding which the Appellant/Claimant is claiming allotments from DDA especially when as mentioned above this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from

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DDA.

(f) The material placed on file shows that in all the four Voter ID Cards (Annexure-A/1, Annexure-A to Annexure-C) as well as in the Aadhar Card (Annexure-D) the photo of the Appellant/Claimant has been printed thereby establishing the identity of the Appellant/Claimant beyond reasonable doubt. Furthermore, issuance of four Voter ID Cards shows that the Appellant/Claimant continued to live in the said single storey Jhuggi No. 6R/C-33, Kali Bari, RML, Delhi from 11.11.1997 (the date of issuance of Voter ID Card No. DL/01/002/108056 -Annexure-A) to 13.04.2024 (the date of issuance of Voter ID Card No. SJE 2396570 - Annexure-C) and further in the Voter Lists of the years 2012 to 2019 (Annexure-Z4 to Annexure-Z11), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be DL/01/002/108056 (Annexure-A & Annexure-A/1) and in the Voter Lists of the years 2020 to 2022 (Annexure-Z12 to Annexure-Z14), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2208197 (Annexure-B) whereas in the Voter List of the year 2024 (Annexure-Z15), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 2396570 (Annexure-C).

(g) The material placed on file shows that that all the four Voter ID Cards (Annexure-A/1, Annexure-A to Annexure-C) of the Appellant/ Claimant are valid documents and on the cutoff date of 01.01.2015 the Appellant/ Claimant was having a valid Voter ID Card issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML Hospital, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and further the name of the Appellant/ Claimant appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 (Annexure-Z4 to Annexure-Z15) and further the reasons for her name having not reflected in the Voter List of the year of survey (2023) has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds for rejection, namely, **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid"** communicated to the Appellant/ Claimant by the Nodal

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Officer vide Rejection Order dated 25.07.2024 (Annexure-Z18) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority and consequently, the EDC Note dated 13.02.2024 (Annexure-Z17) and also the Rejection Order dated 25.07.2024 (Annexure-Z18) are not sustainable being erroneous, wrong and against the facts.

(h) The material placed on file also shows that the Appellant/Claimant has also tendered two Voter ID Cards (Annexure-F & Annexure-G), Aadhar Card (Annexure-H), ID Card issued by Delhi Administration (Annexure-I), Rashtriya Swasthya Beema Yojna Card (Annexure-J), PAN Card (Annexure-K) & Passbook of Bank of India (Annexure-X) of her husband Mool Chand, as well as the Voter ID Card (Annexure-L), Aadhar Card (Annexure-M), PAN Card (Annexure-N), School Certificate (Annexure-S) & Passbook of Bank of India (Annexure-Y) of her son Raj Kumar, two Voter ID Cards (Annexure-O & Annexure-P), Aadhar Card (Annexure-Q), PAN Card (Annexure-R), School Certificate (Annexure-T) & Passbook of Bank of India (Annexure-Z) of her daughter Jyoti, Gas Connection Record (Annexure-U), Electricity Bill (Annexure-V), Passbook of Bank of India (Annexure-W), Ration Card (Annexure-Z1) & Internet Report (Annexure-Z2), the Letter No. F(14)/AC-40/Misc./2024/560 dated 13.11.2024 (Annexure-Z3) issued by AERO, AC-40, New Delhi, Voter List of the year 2012 (Annexure-Z4), Voter List of the year 2013 (Annexure-Z5) Voter List of the year 2014 (Annexure-Z6), Voter List of the year 2015 (Annexure-Z7), Voter List of the year 2016 (Annexure-Z8), Voter List of the year 2017 (Annexure-Z9), Voter List of the year 2018 (Annexure-Z10), Voter List of the year 2019 (Annexure-Z11), Voter List of the year 2020 (Annexure-Z12), Voter List of the year 2021 (Annexure-Z13), Voter List of the year 2022 (Annexure-Z14) & Voter List of the year 2024 (Annexure-Z15) in support of her claim.

(i) The material placed on file also shows that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-F & Annexure-G) of her husband. The first Voter ID Card (Annexure-F) is bearing No. SJE 0176420 and it has been issued on 18.10.2008, much prior to the cutoff date of 01.01.2015 whereas the second Voter ID Card bearing No. SJE 2434801 and it has been issued on 27.07.2024. The Aadhar Card is bearing No. 2743 3779 5236 (Annexure-H) and it has been issued on 30.12.2011, much prior to the cutoff

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date of 01.01.2015. The ID Card issued by Delhi Administration (Annexure-I) has been issued in favour of her husband Mool Chand but the date of issuance is not mentioned therein. The Rashtriya Swasthhya Beema Yojna Card (Annexure-J) has been issued in favour of her husband in May 2008, much prior to the cutoff date of 01.01.2015. The Passbook of Bank of India (Annexure-X) shows that her husband has opened the account on 06.08.2012, much prior to the cutoff date of 01.01.2015. Further, the name of her husband Mool Chand appears at Sl. No. 649 in the Voter List of the year 2012 (Annexure-Z4), at Sl. No. 649 in the Voter List of the year 2013 (Annexure-Z5), at Sl. No. 543 in the Voter List of the year 2014 (Annexure-Z6), at Sl. No. 573 in the Voter List of the year 2015 (Annexure-Z7), at Sl. No. 554 in the Voter List of the year 2016 (Annexure-Z8), at Sl. No. 544 in the Voter List of the year 2017 (Annexure-Z9), at Sl. No. 538 in the Voter List of the year 2018 (Annexure-Z10), at Sl. No. 551 in the Voter List of the year 2019 (Annexure-Z11), at Sl. No. 594 in the Voter List of the year 2020 (Annexure-Z12), at Sl. No. 573 in the Voter List of the year 2021 (Annexure-Z13), at Sl. No. 566 in the Voter List of the year 2022 (Annexure-Z14) and in all these Voter Lists (Annexure-Z4 to Annexure-Z14), the number of the Voter ID Card of Mool Chand is mentioned to be SJE 0176420 (Annexure-F). This shows that the Voter ID Card No. SJE 0176420 dated 18.10.2008 (Annexure-F) and the Voter ID Card No. SJE 2434801 dated 27.07.2024 (Annexure-F) are valid documents as per the records of the Election Commission and further the Voter ID Card No. SJE 0176420 dated 18.10.2008 (Annexure-F) is reflected in the Voter List of the years 2012 to 2022 (Annexure-Z4 to Annexure-Z14). On the other hand, the issuance of two Voter ID Cards of Mool Chand, who is the husband of the Appellant/Claimant, shows that the Appellant/Claimant & her family has been continuously living in Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi from 18.10.2008 (the date of issuance of the first Voter ID Card No. SJE 0176420 - Annexure-F) to 27.07.2024 (the date of issuance of the second Voter ID Card No. SJE 2434801 - Annexure-G) and even till the said Jhuggi was demolished in the year 2024. Further, in all these documents (Annexure-F to Annexure-I, Annexure-X and Annexure-Z4 to Annexure-Z14) the address of the Mool Chand is mentioned to be 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA.

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(j) The material placed on file also shows that the Appellant/Claimant has tendered the Voter ID Card No. SJE 1975142 (Annexure-L) of her son Raj Kumar and it has been issued on 20.11.2015 and his Aadhar Card is bearing No. 6439 9203 3652 (Annexure-M) and it has been issued on 30.07.2011, much prior to the cutoff date of 01.01.2015. The School Certificate (Annexure-S) of her son Raj Kumar shows that in the Academic Session of 2013-2014 he was studying in Atal Adarsh Bal Vidyalaya, Mandir Marg, New Delhi and in the School Records, his address is recorded to be 6R, C-33, Kali Bari, RML, Delhi, regarding which the Appellant/Claimant is claiming allotment from DDA. The Passbook of Bank of India (Annexure-Y) shows that her son Raj Kumar has opened the account on 08.12.2012, much prior to the cutoff date of 01.01.2015. Further, in all these documents (Annexure-L, Annexure-M, Annexure-S & Annexure-Y) the address of Raj Kumar is mentioned to be 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA.

(k) The material placed on file also shows that the Appellant/Claimant has tendered the two Voter ID Cards (Annexure-O & Annexure-P) of her daughter Jyoti. The first Voter ID Card No. SJE 1521863 (Annexure-O) has been issued on 24.03.2011, much prior to the cutoff date of 01.01.2015 whereas the second Voter ID Card is bearing No. SJE 2396612 (Annexure-P) and it has been issued on 13.04.2024 and her Aadhar Card is bearing No. 6709 3763 0754 (Annexure-Q) but the date of issuance is not mentioned therein. The School Certificate (Annexure-T) of her daughter Jyoti shows that in the Academic Session from 01.07.2011 to Feb 2013 she was studying in Atal Adarsh Balika Vidyalaya, Mandir Marg, New Delhi and in the School Records, her address is recorded to be 6R, C-33, Kali Bari, RML, Delhi regarding which the Appellant/Claimant is claiming allotment from DDA. The Passbook of Bank of India (Annexure-Z) shows that her daughter Jyoti has opened the account on 16.09.2011, much prior to the cutoff date of 01.01.2015. Further, the name of her daughter Jyoti appears at Sl. No. 651 in the Voter List of the year 2012 (Annexure-Z4), at Sl. No. 651 in the Voter List of the year 2013 (Annexure-Z5), at Sl. No. 545 in the Voter List of the year 2014 (Annexure-Z6), at Sl. No. 575 in the Voter List of the year 2015 (Annexure-Z7), at Sl. No. 556 in the Voter List of the year 2016 (Annexure-Z8), at Sl. No. 546 in the Voter List of the year 2017 (Annexure-Z9), at Sl. No. 540 in the Voter List of the year 2018 (Annexure-Z10), at Sl. No. 553 in the Voter

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List of the year 2019 (Annexure-Z11), at Sl. No. 596 in the Voter List of the year 2020 (Annexure-Z12), at Sl. No. 575 in the Voter List of the year 2021 (Annexure-Z13), at Sl. No. 568 in the Voter List of the year 2022 (Annexure-Z14) and in all these Voter Lists of the year 2012 to 2022 (Annexure-Z4 to Annexure-Z14), the number of the Voter ID Card of Jyoti is mentioned to be SJE 1521863 (Annexure-O). Further, her name appears at Sl. No. 1079 in the Voter List of the year 2024 (Annexure-Z15) and in this Voter List the number of the Voter ID Card of Jyoti is mentioned to be SJE 2396612 (Annexure-P). This shows that the Voter ID Card No. SJE 1521863 dated 24.03.2011 (Annexure-O) and the Voter ID Card No. SJE 2396612 dated 13.04.2024 (Annexure-P) are valid documents as per the records of the Election Commission and further the Voter ID Card No. SJE 1521863 dated 24.03.2011 (Annexure-O) is reflected in the Voter List of the years 2012 to 2022 (Annexure-Z4 to Annexure-Z14) and the Voter ID Card No. SJE 2396612 dated 13.04.2024 (Annexure-P) is reflected in the Voter List of the year 2024 (Annexure-Z15). On the other hand, the issuance of two Voter ID Cards of Jyoti, who is the daughter of the Appellant/Claimant, has been continuously living in Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi from 24.03.2011 (the date of issuance of the first Voter ID Card No. SJE 1521863 - Annexure-O) to 13.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2396612 - Annexure-P) and even till the said Jhuggi was demolished in the year 2024. Further, in all these documents (Annexure-O to Annexure-Q, Annexure-T, Annexure-Z and Annexure-Z4 to Annexure-Z15) the address of Jyoti is mentioned to be 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA.

(l) The material placed on file also shows that the Appellant/Claimant has tendered the Passbook of Bank of India (Annexure-W), which shows that the Appellant/Claimant has opened the account on 19.04.2003, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA. The Gas Connection Record (Annexure-U) shows that her husband Mool Chand has taken the connection on 28.05.2012, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA. The Electricity Bill (Annexure-V) shows that her husband Mool Chand had taken the connection on 17.01.2013, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. 6R, C33, regarding

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which the Appellant/Claimant is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration card No. 077001141906 (Annexure-Z1) and it has been issued in favour of the Appellant/Claimant on the address of Jhuggi No. 6R, C33, regarding which the Appellant/Claimant is claiming allotment from DDA and the name of her husband and children are mentioned but the date of issuance is not mentioned in this document. Further, the Internet Report (Annexure-Z2) pertaining to the Ration Card downloaded from the internet shows that the Appellant/Claimant had applied for issuance of a Ration Card on 24.08.2013 and it was approved by the competent authority on 09.05.2014, much prior to the cutoff date of 01.01.2015.

(m) The material placed on file shows that the ID Card issued by Delhi Administration (Annexure-I), Rashtriya Swashyay Beema Yojna Card (Annexure-J), School Records (Annexure-S & Annexure-T), Gas Connection Record (Annexure-U), Electricity Bill (Annexure-V), Bank Passbooks (Annexure-W to Annexure-Z) & Ration Card (Annexure-Z1) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that the Appellant/Claimant has tendered her documents and also of her family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Electricity Bill, Gas Connection Records, ID Card, Bank Passbook and Ration Card etc. (Annexure-A/1, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z15) and all these documents have been issued from 1997 to 2024 and it accordingly amply establishes that she as well as her family members have been living jointly in the single storey Jhuggi No. 6R, C33, Kali Bari, RML, Delhi, since long and more particularly on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015 and even till the demolition of the said Jhuggi in the year 2024. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/Claimant was having all the requisite documents and accordingly the Appellant/Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

94. As already pointed out above the survey records & the video clips prepared by the survey team of DDA and the statement of the Appellant/Claimant clearly shows that the single storey Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi of the Appellant/ Claimant was

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found to exist on the cutoff date of 01.01.2015 and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA but her claim was rejected by EDC on 13.02.2024 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-Z18) whereby two reasons for rejection are mentioned to be **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid.".** It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi of the Appellant/Claimant. However, the grounds of rejection have been wrongly & erroneously mentioned in the Rejection Order dated 25.07.2024 (Annexure-Z18) because it is pertinent to point that the remarks given in the EDC Note dated dated 13.02.2024 (Annexure-Z17) are self-contradictory because on the one hand it is mentioned that the Voter ID Card of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. Further, as per our discussion above it has been found by this Appellate Authority that the Appellant/Claimant has claimed allotment against the single storey Jhuggi No. C-33/R-10, Kali Bari, RML Hospital, Delhi, which constitute single dwelling unit, and further she was having valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. 6R/C-33, Kali Bari, RML, Delhi regarding which She has been claiming allotment from DDA and further his name also appears continuously in the voter list of the year's 2012, 2013, 2014, 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 and the reasons for not tendering the Voter List of the year 2023 (year of survey) is well explained in the present case and further She was having "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015 but all these relevant facts were not duly considered by EDC. Hence, the ground of rejection **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** as reflected in the EDC Note dated 13.02.2024 (Annexure-Z17) as well as

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in the Rejection Order dated 25.07.2024 (Annexure-Z18) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority.

95. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 09-KB/2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. F2(ISR)RML/22/2023 dated 25.07.2024 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant Chinta Devi W/o Mool Chand in respect of the single storey Jhuggi No. 6R/C-33, which constitute single dwelling unit, Kali Bari, RML Hospital, Delhi.

96. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. 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 KALI BARI, RML HOSPITAL, DELHI

Appeal No: 11-KB/2024

Date of Institution: 30.08.2024

Date of Order: 25.02.2025

Present: Appellant/ Claimant Rajesh S/o Mool Chand

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 25.07.2024 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-33/R-6, Kali Bari, RML Hospital, Delhi. A Public Notice by DDA was pasted in the Kali Bari, RML, Delhi to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Kali Bari. The Appellant/ Claimant has submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 01.12.2023 thereby intimating the dwellers about organizing of a camp by DDA from 26.12.2023 to 29.12.2023 at DDA site office at Kali Bari, RML, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. C-33/R-6, Kali Bari, RML, Delhi was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative

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allotment and the Nodal Officer, Kali Bari, RML, Delhi, duly communicated its order bearing No. F2(ISR)RML/32/2023 dated 25.07.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 11-KB/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 10.01.2025. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-X, in support of his claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA has been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 10.01.2025. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's double storey Jhuggi bearing No. C-33/R-6, Kali Bari, RML, Delhi was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 25.07.2024 whereby the reasons for rejection is mentioned to be **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

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least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. C-33/R-6, Kali Bari, RML Hospital, Delhi as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Rajesh has been recorded before us on 10.01.2025 wherein he has stated that his parents, Chinta Devi & Moolchand, are having two sons; Rajesh & Raj Kumar and one daughter; Jyoti. Raj Kumar & Jyoti are unmarried. Rajesh (Appellant/Claimant) is married with Arti and having one daughter Lakshika. Moolchand & Chinta Devi along with their unmarried children; Raj Kumar & Jyoti, are living jointly whereas Rajesh along with his family is living separately & independently in another Jhuggi.

9. The Appellant/Claimant has stated that his family was having two Jhuggis in Kali Bari, RML, Delhi and both the Jhuggis were single storey structures and they were situated in different galis (streets) at some distance away from each other but both the Jhuggis happened to be bearing the same number, i.e., Jhuggi No. 6-R, C-33. One of the Jhuggis was having roof made with stone slates whereas the second was having roof made with asbestos sheets.

Jhuggi No. 6R, C-33 – Single storey structure having Pucca Roof

10. The Appellant/Claimant has stated that his parents, Chinta Devi & Moolchand, along with both the unmarried children; Raj Kumar & Jyoti, were living in the Jhuggi No. 6R, C-33, which was a single storey structure & having pucca roof made with stone slates and it comprised of one room & small kitchen and regarding that his mother, Chinta Devi, 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. 09-KB of 2024 before the Appellate Authority and the same is still pending there. These facts are not disputed by DDA.

Jhuggi No. 6R, C-33 - Single storey structure having Roof made with Asbestos Sheets

11. The Appellant/Claimant has stated that he along with with his wife, Arti, & daughter Lakshika, was living in the second Jhuggi No. 6R, C-33, which was single storey structure & having roof made with Asbestos Sheets. The Appellant/Claimant has sought allotment from

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DDA against the said single storey pucca Jhuggi bearing No. 6R, C-33, Kali Bari, RML, Delhi but his claim has been rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further his name appears in the Voter List of the years from 2012 to 2015 but not in the year of survey and accordingly, aggrieved by the same, he has filed the present Appeal No. 11-KB of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-X, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. It is pointed out that both the appeals bearing Appeal No. 09-KB of 2024 and Appeal No. 11-KB of 2024 shall be decided separately on their individual merits.

13. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 10.01.2025 wherein he has stated that the Appellant/Claimant, Rajesh, has sought alternative allotment form DDA against the single storey Jhuggi No. 6R/C-33, Kali Bari, RML, Delhi but his claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified. The Rejection order was communicated to him by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-X) whereby the reasons for rejection is mentioned to be **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"**. Aggrieved by the same, the Appeal No. 11-KB/2024 has been filed by the present Appellant/ Claimant.

GROUND OF REJECTION OF THE CLAIM

14. The material placed on file shows that the Appellant/Claimant Rajesh has sought alternative allotment form DDA against the single storey Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi but his claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further his name does not appear in the voter list of the year of survey. The Rejection order was communicated to him by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-X) whereby the reasons for rejection is mentioned to be **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid."** but the existence of the single

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storey Jhuggi of the Appellant/Claimant is not disputed by DDA and aggrieved by the same he has filed the present Appeal No. 11-KB/2024 before the Appellate Authority for redressal.

15. We shall appraise the material placed on file to determine whether the Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. 6R/C-33, which is a single dwelling unit, and then in later part of this order we shall examine whether the Appellant/Claimant is having a valid Voter ID Card and other requisite documents as per the policy guidelines issued by DDA.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 13.02.2024

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 13.02.2024 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. F2(ISR)RML/32/2023 dated 25.07.2024 (Annexure-X) to the present Appellant/Claimant and the EDC Note dated 13.02.2024 (Annexure-W) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 13.02.2024 (Annexure-W)

> *"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 01.12.2023 for organising a camp from 26.12.2023 to 29.12.2023 at DDA site office at RM Hospital, New Delhi. wherein to the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record,* ***the applicant jhuggi existed on Ground/Upper floor*** *and the policy guidelines for alternate allotment in cases of Ground floor is as under:*
>
> *2. As per policy guidelines, Part –B* ***The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under****: - The name of JJ dwellers must appear in at least one of the voter lists of the year's 2012, 2013, 2014, 2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However,* ***name of the applicant***

appears in voter lists of year 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of the survey, the voter card submitted by the applicant not found valid.

3. The applicant/claimant has failed to submit a valid voter ID. card Hence; the applicant/claimant does not fulfill the eligibility criteria. ***The applicant/claimant is found ineligible for alternative allotment.***"

(Remarks - The grammar & formation of the sentences are ignored by this Appellate Authority in reproducing the EDC Note dated 13.02.2024*)*

18. As already pointed out above, the Appellant/Claimant has stated that he along with with his wife, Arti, & daughter Lakshika, was living in the Jhuggi No. 6R, C-33, which was single storey structure & having roof made with Asbestos Sheets. The Appellant/Claimant has sought allotment from DDA against the said single storey pucca Jhuggi bearing No. 6R, C-33, Kali Bari, RML, Delhi but his claim was rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further her name appears in the Voter List of the years from 2012 to 2015 but not in the year of survey and accordingly, aggrieved by the same, he has filed the present Appeal No. 11-KB of 2024 before the Appellate Authority for redressal.

19. The Appellant/Claimant has stated that his single storey Jhuggi was bearing number 6R, C-33 but in some of his documents the address is mentioned to be Jhuggi No. 6R, C-33 or C-33/6R or C-33/R06 whereas some documents have been issued on the address of Jhuggi No. C-33/6 or 6/C-33 at different point of time and both the numbers belong to one and the same Jhuggi regarding which he is claiming allotment from DDA. However, due to illiteracy & poverty he could not get the address corrected as it was complicated and requires lot of expenditure.

20. It is admitted in the course of arguments that there was no proper mechanism to give numbers to the dwelling units/Jhuggis in Jailor Wala Bagh, Ashok Vihar. Pradhan of the respective community had come with an idea to give numbers to the Jhuggis and this was consented by all the dwellers. Therefore, the numbers on almost all the Jhuggis were given by the Pradhan/dwellers of their own without following any settled pattern. The procedure was not streamlined as some of the Jhuggis were given the same numbers. Further in the fire several Jhuggis of Jailor Wala Bagh, Ashok Vihar were destroyed about 20 years ago and the Jhuggis engulfed in the fire were reconstructed and even the numbers of Jhuggis

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were changed thereby giving new numbers to the freshly re-constructed Jhuggis. This led to changing of Jhuggi numbers in majority of cases and accordingly some of the documents bear old addresses whereas new documents were got issued by the dwellers on the new addresses even though the Jhuggi remained same but it bears different old & new numbers. Furthermore, DDA had conducted survey in different stages spread to long interval and number plates giving the "Names of the owner & Number of the Jhuggis" were affixed. Different survey numbers were given by DDA and video clippings were also prepared. In view of the matter the dwellers cannot be penalized because their Jhuggis bore different numbers at different time or two or more Jhuggis were having same numbers. But it is the prime duty of the EDC as well as this Appellate Authority to appraise the material placed on file in order to determine as to whether the Jhuggis, which happens to be bearing same numbers, are separate & distinct dwelling units or not.

21. Now we shall appraise the other material, namely, survey records & the video clips tendered on file by DDA.

SURVEY RECORDS & VIDEOCLIPS

22. DDA has furnished survey records along with two video clip of two Jhuggis, which happened to be bearing same numbers, i.e., Jhuggi No. 6R/C-33. It is pointed out that the Appellant/Claimant has tendered the Survey Performa (Annexure-U) in support of his claim. The bare perusal of the same shows that the survey team had found the single storey Jhuggi No. C-33/R06 of the Appellant/Claimant, to be in existence in Kali Bari, RML Hospital, Delhi and further it has been used for residential purposes because *in* ***"Column No. 4 - Jhuggi Status,*** *the* Jhuggi No. C-33/R06 is mentioned to be ***"Ground"*** and *in* ***"Column No. 5 - Jhuggi Type,*** *the* Jhuggi No. C-33/R06 is mentioned to be ***"Residential"***. This is a clincher piece of evidence and it shows that DDA has not disputed about the number, identity & nature of the single storey Jhuggi regarding which the Appellant/Claimant has been claiming allotment from DDA because the Jhuggi No. C-33/R6 was found to be single storey structure and used for residential purposes by the survey team of DDA.

23. DDA has furnished survey record along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 10.01.2025 wherein he has stated that in the first video clip the single storey Jhuggi No. 6R, C-33 having a pucca roof made with stone slates is seen and further, his mother Chinta Devi is seen and

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getting the survey conducted and her room and small kitchen are seen and further, an iron ladder placed outside in the gali is also seen and furthermore, she is seen holding a slate in her hand on which **"Sr. No. 22 Survey No. 22 Jh. No. C-33/R06 CHINTA DEVI G.F"** is seen to have been written. In the second video clip, the Jhuggi No. 6R, C-33 of the Appellant/Claimant Rajesh is seen in which the Jhuggi is clearly seen to be a single storey structure having roof made with asbestos sheets and further his room/ kitchen are also seen and further, Rajesh is seen holding a slate in his hand on which **"Sr. No. 34 Survey No. 32 Jh. No. C-33,68 RAJESH G.F"** is seen to have been written.

24. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi 6R/C-33, which were prepared by the survey team of DDA and also played before him when his statement was recorded before us on 10.01.2025 wherein he has stated that in the video clip, the Jhuggi No. 6R, C-33 of the Appellant/Claimant Rajesh is seen in which the Jhuggi is clearly seen to be a single storey structure having roof made with asbestos sheets and further his room/ kitchen are also seen and further, Rajesh is seen holding a slate in his hand on which **"Sr. No. 34 Survey No. 32 Jh. No. C-33,68 RAJESH G.F"** is seen to have been written.

25. As pointed out above, the Appellant/Claimant has stated that his single storey Jhuggi was bearing number 6R, C-33 but in some of his documents the address is mentioned to be Jhuggi No. 6R, C-33 or C-33/6R or C-33/R06 whereas some documents have been issued on the address of Jhuggi No. C-33/6 or 6/C-33 at different point of time and all the numbers belong to one & the same Jhuggi regarding which he is claiming allotment from DDA. However, due to illiteracy & poverty he could not get the address corrected as it was complicated and requires lot of expenditure. There is nothing to disbelieve his statement especially when DDA has not disputed the existence of his single storey in Kali Bari, RML Hospital, Delhi regarding which he has been claiming allotment from DDA, therefore, we have no hesitation in holding that giving of different sequence of the number and not mentioning of one word "R" is of no consequence because for that the Appellant/Claimant, who is illiterate & poor, cannot be blamed and accordingly the variation in giving number to his Jhuggi, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 does not mar his entitlement to claim allotment from DDA because all these numbers denote to one & the same Jhuggi No. 6R/C-33 regarding which he is claiming allotment from DDA.

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Therefore, we have no hesitation in holding that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denote to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA.

26. It is pertinent to point out that as per survey records (Annexure-U) the survey was got conducted by the Appellant/Claimant of his single storey Jhuggi No. 6,C-33 and further the documents tendered by him in support of his claim and the details of his family members are mentioned therein. It shows that the Appellant/Claimant had made representation to DDA to seek allotment from DDA against Jhuggi No. 6, C-33 and had annexed his documents, namely, Voter ID Card No. SJE 1811123 and Aadhar Card No. 4814 4610 7384, thereby, showing that the Appellant/Claimant had not concealed any facts. Furthermore, the Appellant/Claimant had tendered his Voter ID Card No. SJE 1811123 (Annexure-A), which has been reflected in the Voter List of the years 2014 to 2022 (Annexure- K to Annexure-S) and Aadhar Card No. 4814 4610 7384 dated 13.07.2021 (Annexure-C) when his statements were recorded before us on 10.01.2015 in addition to other documents in support of his claim. The survey records placed on file by DDA further shows that DDA has not disputed about the identity of the single storey Jhuggi Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, in the video clip prepared by the survey team of DDA the single storey Jhuggi No. 6R, C-33 having roof made with Asbestos Sheets is seen and further, the Appellant/Claimant is seen and getting the survey conducted and his room/kitchen are seen and further he is seen holding a slate in his hand on which **"Sr. No. 34 Survey No. 32 Jh. No. C-33,68 RAJESH G.F"** is seen to have been written. This corroborates the statement of the Appellant/Claimant that Jhuggi No. 6R/C-33 is a single storey structure & having roof made with Asbestos Sheets and it comprised of one room/kitchen, which are part of same dwelling unit, and used by the Appellant/Claimant & his family for residential purposes. Furthermore, the Appellant/Claimant along with his family is living separately & independently in the said single storey Jhuggi No. 6R/C-33 and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee on the grounds **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** but the existence of the Jhuggi of the

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Appellant/Claimant is not disputed by DDA and aggrieved by the same he has filed the present Appeal No. 11-KB/2024 before the Appellate Authority for redressal.

27. It is pertinent to point out that the statement of the Appellant/Claimant and the survey records & the video clips annexed thereto shows that the family of the Appellant/Claimant was having two Jhuggis in Kali Bari, RML, Delhi and both the Jhuggis were bearing same numbers, i.e., Jhuggi No. 6R, C-33. Both the Jhuggis were single storey structures and they were situated in different galis (streets) at some distance away from each other. One of the Jhuggis was having roof made with stone slates whereas the second was having roof made with asbestos sheets.

28. The material placed on file shows that Chinta Devi, who is the mother of the Appellant/Claimant, along with both the unmarried children; Raj Kumar & Jyoti, was living in the Jhuggi No. 6R, C-33, which was single storey structure & having pucca roof made with stone slates and it comprised of one room & small kitchen and regarding that his mother Chinta Devi 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. 09-KB of 2024 before the Appellate Authority. Whereas the present Appellant/Claimant along with along with his wife Arti & daughter Lakshika, was living in the second Jhuggi No. 6R, C-33, which was a single storey structure & was having roof made with asbestos sheets. The Appellant/Claimant has sought allotment from DDA against the said single storey pucca Jhuggi bearing No. 6R, C-33, Kali Bari, RML, Delhi but his claim was rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified and further his name appears in the Voter List of the years from 2012 to 2015 but not in the year of survey and accordingly, aggrieved by the same, she has filed the present Appeal No. 11-KB of 2024 before the Appellate Authority for redressal. Furthermore, the video clips prepared by the survey team at the time of conducting survey of both the Jhuggis also corroborates the statement of the present Appellant/Claimant that both the Jhuggis have been found to be separate & distinct Jhuggis and situated at some distance away from each other in two different galis (streets).

29. Therefore, the factum of there being two Jhuggis bearing same number, i.e., Jhuggi No. 6R, C-33 is of no consequence. The material placed on file shows that Chinta Devi, who is the mother of the Appellant/Claimant, was living separately & independently in pucca single

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storey Jhuggi No. 6R, C-33, which was having pucca roof made with stone slates & it comprised of one room & small kitchen whereas the Appellant/Claimant Rajesh was living separately & independently in his Jhuggi No. 6R, C-33, which was having roof made with asbestos sheets & it comprised of one room/kitchen and accordingly the Appellant/Claimant as well as his mother Chinta Devi claiming allotment from DDA against their respective Jhuggis has no direct bearing because the material placed on file shows that both the Jhuggis of Chinta Devi as well as of the present Appellant/Claimant are separate & distinct dwelling units. It is pointed out that in the EDC Note dated 13.02.2024 (Annexure-W) it is no where mentioned that the Appellant/ Claimant has sought allotment from DDA against Jhuggi No. 6R, C-33 of Chinta Devi or vice versa and also that it was the case of double allotment.

30. Therefore, we have no hesitation in holding that there were two separate & distinct Jhuggis bearing same number i.e., 6R, C-33 in Kali Bari, RML Hospital, Delhi and Furthermore, the survey records & video clips annexed thereto shows location of both the Jhuggis and it clearly shows that both the Jhuggis of Chinta Devi and her son Rajesh are situated at some distance away from each other and further both the Jhuggis even though bearing same number (Jhuggi No. 6R, C-33) are separate & distinct dwelling units.

31. The survey records placed on file shows that the single storey Jhuggi No 6R/C-33, Kali Bari, RML Hospital, Delhi of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-X) whereby the reasons for rejection is mentioned to be **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid."** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 13.02.2024 (Annexure-W) it has been mentioned that the Voter ID Card was not a valid document and further his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey. The bare perusal of the EDC Note dated dated 13.02.2024 (Annexure-W) shows that DDA has not disputed about the existence of the single storey Jhuggi No. 6R/C-33 of the

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Appellant/ Claimant and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA and accordingly the ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 25.07.2024 (Annexure-X) needs to be determined. Here it is pertinent to point out that the remarks given in the EDC Note dated dated 13.02.2024 (Annexure-W) are self-contradictory because on the one hand it is mentioned that the Voter ID Card of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. Accordingly, we shall appraise the material placed on file to determine whether the Voter ID Card of the Appellant/ Claimant is a valid document or not in the later part of this order because the material placed on file shows that DDA has not disputed about the existence of the said single storey Jhuggi No. 6R/C-33, which is a single dwelling unit, regarding which the Appellant/Claimant has claimed alternative allotment from DDA.

32. As per our discussion above, the bare perusal of the EDC Note dated 13.02.2024 (Annexure-W) shows that it is no where disputed by DDA as far as the existence of the single storey Jhuggi No. 6R/C-33 of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently and using it for residential purposes is concerned but his claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified inspite of the fact that his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit comprising of the single storey Jhuggi No. 6R/C-33 except that he was allegedly not having all the requisite documents.

33. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. 6R/C-33. Thus the statement of the

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Appellant/Claimant as well as the survey records/video clip has duly proved that the single storey Jhuggi No. 6R/C-33 was in existence in Kali Bari, RML Hospital, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was living in the said single storey Jhuggi No. 6R/C-33, which is a single dwelling unit, and the same has been used by him for residential purposes.

34. Accordingly, we have no hesitation in holding that on the cutoff date of 01.01.2015 the single storey Jhuggi No. 6R/C-33 was in existence in the Kali Bari, RML Hospital, Delhi and the Appellant/Claimant along with his family was living in the said single storey Jhuggi No. 6R/C-33 and further the Appellant/Claimant has been using the same for residential purposes on the cutoff date of 01.01.2015 as well as thereafter uptil it was demolished in the year 2024 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit.

GROUND OF REJECTION ON THE GROUND OF "VOTER CARD NOT VERIFIED"

35. Moreover, by taking holistic approach, we shall now appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the said single storey Jhuggi No. 6R/C-33 as per the policy guidelines issued by DDA.

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

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

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"Part-B

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

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

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

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

49. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted,

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

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

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

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

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

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

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

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

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

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

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

60. It is pointed out that we have already held that that the single storey Jhuggi No. 6R/C-33 was in existence in the Kali Bari, RML Hospital, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was living in the said single storey Jhuggi No. 6R/C-33, which was single dwelling unit, and further the Appellant/Claimant has been using the same for residential purposes on the cutoff date of 01.01.2015 as well as thereafter uptil it was demolished in the year 2024 and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

61. It is also pointed out that we have already held that the single storey Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA but his claim was rejected by EDC on 13.02.2024 Annexure-W) and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-X) whereby two reasons for rejection are mentioned to be **"1. The**

name of the applicant has not been found in year of survey even though his name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid". However, the grounds of rejection seem to be wrongly & erroneously mentioned in the EDC Note dated 13.02.2024 ((Annexure-W) and the Rejection Order dated 25.07.2024 (Annexure-X) because it is pertinent to point that the remarks given in the EDC Note dated 13.02.2024 Annexure-W) and the Rejection Order dated 25.07.2024 (Annexure-X) are self-contradictory in nature because on the one hand it is mentioned that the Voter ID Card of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether his name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

62. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi as per the policy guidelines issued by DDA.

63. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), the Letter No. F(14)/AC-40/Misc./2024/561 dated 13.11.2024 (Annexure-J) issued by AERO, AC-40, New Delhi, Voter List of the year 2014 (Annexure-K), Voter List of the year 2015 (Annexure-L), Voter List of the year 2016 (Annexure-M), Voter List of the year 2017 (Annexure-N), Voter List of the year 2018 (Annexure-O), Voter List of the year 2019 (Annexure-P), Voter List of the year

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2020 (Annexure-Q), Voter List of the year 2021 (Annexure-R), Voter List of the year 2022 (Annexure-S) and Voter List of the year 2024 (Annexure-T) in support of his claim.

64. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-X, in support of his claim. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card is bearing No. SJE 1811123 (Annexure-A) and it has been issued on 16.01.2014, much prior to the cutoff date of 01.01.2015. The second Voter ID Card is bearing No. SJE 2396646 (Annexure-B) and it has been issued on 13.04.2024. The Aadhar Card (Annexure-C) is bearing No. 4814 4610 7384 and it has been issued on 13.07.2021. Further, it is pointed out that the Letter No. F(14)/AC-40/Misc./2024/561 dated 13.11.2024 issued by AERO, AC-40, New Delhi (Annexure-J) shows that the Voter ID Card No. SJE 1811123 (Annexure-A) is mentioned in the records of the Election Commission and further, this Voter ID Card (Annexure-A) has been recorded in the Voter Lists of the year 2012 to 2022 & 2024. Further, the name of the Appellant/Claimant appears at Sl. No. 1068 in the Voter List of the year 2014 (Annexure-K), at Sl. No. 572 in the Voter List of the year 2015 (Annexure-L), at Sl. No. 553 in the Voter List of the year 2016 (Annexure-M), at Sl. No. 542 in the Voter List of the year 2017 (Annexure-N), at Sl. No. 536 in the Voter List of the year 2018 (Annexure-O), at Sl. No. 549 in the Voter List of the year 2019 (Annexure-P), at Sl. No. 592 in the Voter List of the year 2020 (Annexure-Q), at Sl. No. 571 in the Voter List of the year 2021 (Annexure-R), at Sl. No. 564 in the Voter List of the year 2022 (Annexure-S) and further, in all these Voter Lists (Annexure-K to Annexure-S), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 1811123 (Annexure-A). Furthermore, his name appears at Sl. No. 1081 in the Voter List of the year 2024 (Annexure-T) and in this Voter List (Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be SJE 239646 (Annexure-B) and furthermore, all the documents (Annexure-A to Annexure-C & Annexure-J to Annexure-T) the address of the Appellant/Claimant has been mentioned to be Jhuggi No. C-33/R-6 regarding which the Appellant/Claimant has been claiming allotment from DDA.

65. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the eligibility criteria on which the EDC has decided the claimant's case as ineligible is that the applicant's name is not verified in the 2023 voter list, which is the year of the

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survey. In this cluster, the year of the survey was 2023, and the applicant's/claimant's name is not present in the voter list for that year. Therefore, as per DDA's policy, the applicant is not eligible for rehabilitation under the In-Situ Rehabilitation policy. As per the policy guidelines, Part-B, the eligibility criteria for the allotment of alternative dwelling units for the rehabilitation and relocation of JJ dwellers state that "The name of the JJ dweller must appear in at least one of the voter lists of the years 2012, 2013, 2014, or 2015 (prior to 01.01.2015) and also in the year of the survey." However, the name of the applicant appears in voter list of year 2012, 2013, 2014 and 2015 but not found in year of the survey. Hence, the applicant does not fulfill the eligibility criteria as per the policy.

66. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card is bearing No. SJE 1811123 (Annexure-A) and it has been issued on 16.01.2014, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. 6, C-33, regarding which he is claiming allotments from DDA. The second Voter ID Card No. SJE 2396646 (Annexure-B) of the Appellant/Claimant has been issued on 13.04.2024 on the address of Jhuggi No. 6, C-33, regarding which he is claiming allotments from DDA. The Aadhar Card No. No. 4814 4610 7384 (Annexure-C) of the Appellant/Claimant has been issued on 13.07.2021 on the address of Jhuggi No. 6R, C-33, regarding which he is claiming allotments from DDA. Here, the facts cannot be lost sight that this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA.

67. It is pointed out that the Appellant/Claimant has fully explained the reasons for having got two Voter ID Cards (Annexure-A & Annexure-B) wherein he has stated that the Election Commission has withdrawn the "Black & White Series" and instead a new "Colored Series" was issued and accordingly, the Voter ID Card No. SJE 1811123 (Annexure-A) was withdrawn by the Election Commission and in its place, the new Voter ID Card No. SJE 2396646 (Annexure-B) was issued in his favour. There is nothing to disbelieve the statement of the Appellant/Claimant on this aspect.

68. Further, the Letter No. F(14)/AC-40/Misc./2024/561 dated 13.11.2024 (Annexure-J) issued by AERO, AC-40, New Delhi shows that both the Voter ID Card No. SJE 1811123 (Annexure-A) & SJE 2396646 (Annexure-B) are valid documents as per the records of the Election

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Commission and further, both the Voter ID Cards have been reflected in the Voter Lists of the years 2014 to 2022 & 2024. Further, the name of the Appellant/Claimant appears at Sl. No. 1068 in the Voter List of the year 2014 (Annexure-K), at Sl. No. 572 in the Voter List of the year 2015 (Annexure-L), at Sl. No. 553 in the Voter List of the year 2016 (Annexure-M), at Sl. No. 542 in the Voter List of the year 2017 (Annexure-N), at Sl. No. 536 in the Voter List of the year 2018 (Annexure-O), at Sl. No. 549 in the Voter List of the year 2019 (Annexure-P), at Sl. No. 592 in the Voter List of the year 2020 (Annexure-Q), at Sl. No. 571 in the Voter List of the year 2021 (Annexure-R) and at Sl. No. 564 in the Voter List of the year 2022 (Annexure-S) as well as at Sl. No. 1081 in the Voter List of the year 2024 (Annexure-T) and further, in all these Voter Lists (Annexure-K to Annexure-S), the number of the Voter ID Card is mentioned to be SJE 1811123 (Annexure-A) whereas in the Voter List (Annexure-T), the number of the Voter ID Card is mentioned to be SJE 239646 (Annexure-B). On the other hand, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi from 16.01.2014 (the date of issuance of the first Voter ID Card No. SJE 1811123-Annexure-A) to 13.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2396646 - Annexure-B) and even till the said Jhuggi was demolished in the year 2024.

69. It is also pointed out that in the Voter List of the years 2014 to 2022 (Annexure-K to Annexure-S) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6 and further in the Voter List of the years 2015 to 2022 (Annexure-L to Annexure-S) it is specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Moreover, in the Voter List of the years 2024 (Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6, C-33 T - Huts and further in this Voter List it is specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Thus, all the documents (Annexure-A to Annexure-C & Annexure-K to Annexure-S) pertain to Jhuggi No. 6R, C-33, regarding which the Appellant/Claimant is claiming allotments from DDA especially when as mentioned above this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA.

70. Accordingly, we have no hesitation in holding that the first Voter ID Card of the Appellant/Claimant is bearing No. SJE 1811123 (Annexure-A) and it has been issued on 16.01.2014, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. 6, C-

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33, regarding which he is claiming allotments from DDA. The second Voter ID Card No. SJE 2396646 (Annexure-B) of the Appellant/Claimant has been issued on 13.04.2024 on the address of Jhuggi No. 6, C-33, regarding which he is claiming allotments from DDA. Furthermore, the Election Commission has withdrawn the "Black & White" series and issued a new "Coloured" series and accordingly the Voter ID Card No. SJE 1811123 (Annexure-A) was withdrawn and in its place a new Voter ID Card No. SJE 2396646 (Annexure-B) was issued in favour of the Appellant/Claimant. The Aadhar Card No. No. 4814 4610 7384 (Annexure-C) of the Appellant/Claimant has been issued on 13.07.2021 on the address of Jhuggi No. 6R, C-33, regarding which he is claiming allotments from DDA. Further, both the Voter ID Card No. SJE 1811123 (Annexure-A) & SJE 2396646 (Annexure-B) of the Appellant/Claimant are valid documents as per the records of the Election Commission and both the Voter ID Cards have been reflected in the Voter Lists of the years 2014 to 2022 & 2024 as corroborated by the Letter No. F(14)/AC-40/Misc./2024/561 dated 13.11.2024 (Annexure-J) issued by AERO, AC-40, New Delhi. Further, the name of the Appellant/Claimant appears at Sl. No. 1068 in the Voter List of the year 2014 (Annexure-K), at Sl. No. 572 in the Voter List of the year 2015 (Annexure-L), at Sl. No. 553 in the Voter List of the year 2016 (Annexure-M), at Sl. No. 542 in the Voter List of the year 2017 (Annexure-N), at Sl. No. 536 in the Voter List of the year 2018 (Annexure-O), at Sl. No. 549 in the Voter List of the year 2019 (Annexure-P), at Sl. No. 592 in the Voter List of the year 2020 (Annexure-Q), at Sl. No. 571 in the Voter List of the year 2021 (Annexure-R) and at Sl. No. 564 in the Voter List of the year 2022 (Annexure-S) as well as at Sl. No. 1081 in the Voter List of the year 2024 (Annexure-T) and further, in all these Voter Lists (Annexure-K to Annexure-S), the number of the Voter ID Card is mentioned to be SJE 1811123 (Annexure-A) whereas in the Voter List (Annexure-T), the number of the Voter ID Card is mentioned to be SJE 239646 (Annexure-B). On the other hand, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi from 16.01.2014 (the date of issuance of the first Voter ID Card No. SJE 1811123- Annexure-A) to 13.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2396646 - Annexure-B) and even till the said Jhuggi was demolished in the year 2024. Moreover, in the Voter List of the years 2014 to 2022 (Annexure-K to Annexure-S) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6 and further in the Voter List of the years 2015 to 2022 (Annexure-L to Annexure-S) it is specifically mentioned that

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it pertain to C-33, T – Huts, Kali Bari. Moreover, in the Voter List of the years 2024 (Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6, C-33 T - Huts and further in this Voter List it is specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Thus, all the documents (Annexure-A to Annexure-C & Annexure-K to Annexure-S) pertain to Jhuggi No. 6R, C-33, regarding which the Appellant/Claimant is claiming allotments from DDA especially when as mentioned above this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA. Therefore, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant was having a valid Voter ID Card issued on the address of Jhuggi No. C-33/R-10, Kali Bari, RML Hospital, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and further the name of the Appellant/ Claimant appears in the Voter List of the year's 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 but these facts were ignored by the EDC.

71. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because his name does not appear in the voter list of the years 2012, 2013 & also of the year of survey, i.e., 2023 (because as per the Survey Performa (Annexure-U) placed on file survey/videography was conducted in the year 2023) even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also continuously appears in the voter list of the year's 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024.

72. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

(iv) in any year if such revision has been directed by the Election Commission.

73. It is pointed out that the Voter ID Card No. SJE 1811123 (Annexure-A) of the Appellant/Claimant was issued on 16.01.2014 and accordingly the question of his name appearing in the Voter List of the years 2012 & 2013 does not arise and further the Voter

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List of the years 2023 was not prepared by the Election Commission. Therefore, the reasons for not tendering the Voter List of the years 2012, 2013 & also of the year of survey, i.e., 2023 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the years 2012, 2013 & also of the year of survey, i.e., 2023 when it was not prepared/ available with the Election Commission.

74. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains his Voter ID Card on 18.10.2008, before the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears in the voter list of the year's 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 but their name happened to be not appearing in the Voter List of the years 2012, 2013 & also in the Voter List of the year 2023 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter List of the years 2012, 2013 & also of the year of survey, i.e., 2023 even though they possess all the relevant documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 and further all these documents in unequivocal terms shows that they have been continuing living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having the Voter List of the years 2012, 2013 & also of the year 2023 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the voter list of the years 2012, 2013 & also of the year 2023 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole

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ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No. SJE 1811123 dated 16.01.2014 (Annexure-A), which have been issued on the address of Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi regarding which he is claiming allotment from DDA. The Appellant/Claimant is also having another valid Voter ID Card No. SJE 23966646 dated 13.04.2024 (Annexure-B) & the Aadhar Card No. 4814 4610 7384 (Annexure-C), which have also been issued on the address of the Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi, regarding which he is claiming allotment from DDA. Further, the Letter No. F (14)/AC-40/Misc./2024/561 dated 13.11.2024 (Annexure-J) of AERO, AC-40, New Delhi shows that the Voter ID Card No. SJE 1811123 dated 16.01.2014 (Annexure-A) of the Appellant/Claimant is valid document as per the records of the Election Commission and further this Voter ID Card No. SJE 1811123 dated 16.01.2014 (Annexure-A) is duly reflected in the Vote List of the years from 2014 to 2022 (Annexure-K to Annexure-S) and furthermore, the Voter ID Card No. SJE 23966646 dated 13.04.2024 (Annexure-B) of the Appellant/Claimant is also a valid document as per the records of the Election Commission and further this Voter ID Card No. SJE 23966646 (Annexure-B) is duly reflected in the Vote List of the year 2024 (Annexure-T). Further, the name of the Appellant/Claimant appears at Sl. No. 1068 in the Voter List of the year 2014 (Annexure-K), at Sl. No. 572 in the Voter List of the year 2015 (Annexure-L), at Sl. No. 553 in the Voter List of the year 2016 (Annexure-M), at Sl. No. 542 in the Voter List of the year 2017 (Annexure-N), at Sl. No. 536 in the Voter List of the year 2018 (Annexure-O), at Sl. No. 549 in the Voter List of the year 2019 (Annexure-P), at Sl. No. 592 in the Voter List of the year 2020 (Annexure-Q), at Sl. No. 571 in the Voter List of the year 2021 (Annexure-R) and at Sl. No. 564 in the Voter List of the year 2022 (Annexure-S) as well as at Sl. No. 1081 in the Voter List of the year 2024 (Annexure-T) and further, in all these Voter Lists (Annexure-K to Annexure-S), the number of the Voter ID Card is mentioned to be SJE 1811123 (Annexure-A) whereas in the Voter List (Annexure-T), the number of the Voter ID Card is mentioned to be SJE 239646 (Annexure-B). On the other hand, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi from 16.01.2014 (the date of issuance of the first Voter ID Card No. SJE 1811123- Annexure-A) to 13.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2396646 - Annexure-B) and even till the said Jhuggi was demolished in the year 2024. Moreover, in the Voter List of the years 2014 to 2022 (Annexure-K to Annexure-

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S) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6 and further in the Voter List of the years 2015 to 2022 (Annexure-L to Annexure-S) it is specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Moreover, in the Voter List of the years 2024 (Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6, C-33 T - Huts and further in this Voter List it is specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Thus, all the documents (Annexure-A to Annexure-C & Annexure-K to Annexure-S) pertain to Jhuggi No. 6R, C-33, regarding which the Appellant/Claimant is claiming allotments from DDA especially when as mentioned above this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA. Therefore, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant was having a valid Voter ID Card issued on the address of Jhuggi No. C-33/R-06, Kali Bari, RML Hospital, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and further the name of the Appellant/ Claimant appears in the Voter List of the year's 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 but these facts were ignored by the EDC.

75. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate his residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

76. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the

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electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
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> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."*
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> *"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12*

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documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

77. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

78. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and he is also found to be having a valid Voter ID Card on the cutoff date of 01.01.2015 & also a Aadhar Card and further he possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view especially when the Appellant/Claimant was having a valid Voter ID Card No. SJE 1811123 dated 16.01.2014 (Annexure-A) on the cutoff date of 01.01.2015 and further another valid Voter ID Card No. SJE 2396646 dated 13.04.2024 (Annexure-B) & the Aadhar Card No. 4814 4610 7384 (Annexure-C) and further his name also appears continuously in the Voter Lists from the years 2014 to 2022 & 2024 (Annexure-K to Annexure-T) and all the documents (Annexure-A to Annexure-C and Annexure-K to Annexure-T) have been issued on the address of Jhuggi No. C-33/R-6, Kali Bari, RML Hospital, Delhi regarding which he is claiming allotment from DDA and further he as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

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79. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a Voter ID Card (Annexure-A) on the cutoff date of 01.01.2015 & another Voter ID Card (Annexure-B) and a Aadhar Card (Annexure-C) and further his name also appears in the voter list of the year's 2014 & 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 (Annexure-K to Annexure-T) and further the reasons for his name having not reflected in the Voter List of the years 2012 & 2013 & of the year of survey (2023) has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds for rejection, namely, **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid"** communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-X) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority and consequently, the EDC Note dated 13.02.2024 (Annexure-W) and also the Rejection Order dated 25.07.2024 (Annexure-X) are not sustainable being erroneous, wrong and against the facts.

80. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with his family was living in Jhuggi No. C-33/R-6, Kali Bari, RML Hospital, Delhi since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lend support to the claim put forward by the Appellant/Claimant.

81. The Appellant/Claimant has tendered his Driving Licence (Annexure-E) as well as the Voter ID Card (Annexure-F) & Aadhar Card (Annexure-G) of his wife Arti and also the Passbook of Bank of India (Annexure-H) and School Certificate (Annexure-I) in support of his claim.

82. It is pointed out that the Driving Licence (Annexure-E) of the Appellant/Claimant has been issued on 27.07.2017 and further, it has been issued on the address of the Jhuggi No. 6R, C-33, Kali Bari, RML Delhi, regarding which the Appellant/Claimant has been claiming allotment from DDA. The Voter ID Card No. SJE 2436871 (Annexure-F) of his wife Arti has been issued on 17.08.2024 and her Aadhar Card (Annexure-G) is bearing No. 2200 2803 9590 and it has been issued on 30.04.2015. Furthermore, both the documents (Annexure-

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F & Annexure-G) have also been issued on the address of the Jhuggi No. 6R, C-33, Kali Bari, RML, Delhi, regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of Bank of India (Annexure-H) shows that the Appellant/Claimant has opened the account on 08.10.2012, much prior to the cutoff date of 01.01.2015 and further the account has been opened on the address of the Jhuggi No. 6R, C-33, Kali Bari, RML, Delhi, regarding which the Appellant/Claimant has been claiming allotment from DDA. The School Certificate (Annexure-I) pertains to the Appellant/Claimant thereby showing that in the Academic Session of 2014 -2015 in the school records of Atal Adarsh Bal Vidyalaya, Mandir Marg, New Delhi where he had studied up to 12th class, his address was recorded to be 6R, C-33, Kali Bari, RML, Delhi, regarding which the Appellant/Claimant is claiming allotment from DDA and further in the School Record, his date of birth is recorded to be 15.08.1995 and the same is also corroborated by other documents viz. Annexure-B to Annexure-E. Further, it is pointed out that these documents (Annexure-E to Annexure-I) have been issued on the address of the Jhuggi No. 6R, C-33, Kali Bari, RML Delhi, regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, all these documents shows that the Appellant/Claimant as well as his family members are having their respective Voter ID Cards, Aadhar Cards as well as they are also maintaining Bank Account and also having Driving Licence & School Records and it corroborates that the Appellant/Claimant along with his family have been living jointly in the said single storey Jhuggi No. 6R, C-33, Kali Bari, RML Delhi.

83. The Appellant/Claimant has tendered his documents and also of his family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Driving Licence, School Records and Bank Passbook etc. and all these documents have been issued from 2014 to 2024 and it accordingly amply establishes that he as well as his family members have been living jointly in the single storey Jhuggi No. 6R, C-33, Kali Bari, RML Delhi, since long and more particularly on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015 and till the said Jhuggi was demolished in the year 2024. The material placed on file shows that the Driving Licence (Annexure-E), Passbook of Bank of India (Annexure-H) and School Certificate (Annexure-I) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

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84. In view of the matter as per our discussion above, the material placed on file supports the claim of the Appellant/ Claimant and shows that the Appellant/ Claimant fulfils the eligibility criteria as per the policy guidelines issued by DDA as under: -

(a) The material placed on file shows that the Appellant/Claimant on the cutoff date of 01.01.2015 along with his family had been using the Jhuggi No. 6R, C33, Kali Bari, RML Hospital, Delhi, which constitute single dwelling unit, for residential purposes and the facts cannot be lost sight that this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA and further as per our discussion above, the documents, Annexure-A to Annexure-X, shows that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card is bearing No. SJE 1811123 (Annexure-A) and it has been issued on 16.01.2014, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. 6, C-33, regarding which he is claiming allotments from DDA. The second Voter ID Card No. SJE 2396646 (Annexure-B) of the Appellant/Claimant has been issued on 13.04.2024 on the address of Jhuggi No. 6, C-33, regarding which he is claiming allotments from DDA. The Aadhar Card No. No. 4814 4610 7384 (Annexure-C) of the Appellant/Claimant has been issued on 13.07.2021 on the address of Jhuggi No. 6R, C-33, regarding which he is claiming allotments from DDA. Further, the Appellant/Claimant has explained the reasons for having two Voter ID Cards (Annexure-A & Annexure-B) at different point of time. Further both the Voter ID Cards (Annexure-A & Annexure-B) remained to be valid documents and have been used by the Appellant/Claimant to cast vote as reflected in the Voter Lists of the years 2014 to 2022 & 2024 (Annexure-K to Annexure-T).

(b) The material placed on file shows that the Letter No. F(14)/AC-40/Misc./2024/561 dated 13.11.2024 (Annexure-J) issued by AERO, AC-40, New Delhi shows that both the Voter ID Card No. SJE 1811123 (Annexure-A) & SJE 2396646 (Annexure-B) are valid documents as per the records of the Election Commission and further, both the Voter ID Cards have been reflected in the Voter Lists of the years 2014 to 2022 & 2024. Further, the name of the Appellant/Claimant appears at Sl. No. 1068 in the Voter List of the year 2014 (Annexure-K), at Sl. No. 572 in the Voter List of the year 2015 (Annexure-L), at Sl. No. 553 in the Voter List of the year 2016 (Annexure-M), at Sl. No.

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542 in the Voter List of the year 2017 (Annexure-N), at Sl. No. 536 in the Voter List of the year 2018 (Annexure-O), at Sl. No. 549 in the Voter List of the year 2019 (Annexure-P), at Sl. No. 592 in the Voter List of the year 2020 (Annexure-Q), at Sl. No. 571 in the Voter List of the year 2021 (Annexure-R) and at Sl. No. 564 in the Voter List of the year 2022 (Annexure-S) as well as at Sl. No. 1081 in the Voter List of the year 2024 (Annexure-T) and further, in all these Voter Lists (Annexure-K to Annexure-S), the number of the Voter ID Card is mentioned to be SJE 1811123 (Annexure-A) whereas in the Voter List (Annexure-T), the number of the Voter ID Card is mentioned to be SJE 239646 (Annexure-B). On the other hand, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. C-33/R-6, Kali Bari, RML, Delhi from 16.01.2014 (the date of issuance of the first Voter ID Card No. SJE 1811123- Annexure-A) to 13.04.2024 (the date of issuance of the second Voter ID Card No. SJE 2396646 - Annexure-B) and even till the said Jhuggi was demolished in the year 2024.

(c) The material placed on file shows that in the Voter List of the years 2014 to 2022 (Annexure-K to Annexure-S) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6 and further in the Voter List of the years 2015 to 2022 (Annexure-L to Annexure-S) it is specifically mentioned that it pertains to C-33, T – Huts, Kali Bari. Moreover, in the Voter List of the years 2024 (Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. 6, C-33 T - Huts and further in this Voter List it is specifically mentioned that it pertain to C-33, T – Huts, Kali Bari. Thus, all the documents (Annexure-A to Annexure-C & Annexure-K to Annexure-S) pertain to Jhuggi No. 6R, C-33, regarding which the Appellant/Claimant is claiming allotments from DDA especially when as mentioned above this Appellate Authority has already held that all the numbers, namely, 6R, C-33 or C-33/6R or C-33/R06 and C-33/6 or 6/C-33 denotes to one & the same Jhuggi, bearing Jhuggi No. 6R/C-33 regarding which the Appellant/Claimant is claiming allotment from DDA.

(d) The material placed on file shows that the Voter ID Card No. SJE 1811123 dated 16.01.2014 (Annexure-A) & the Voter ID Card No. SJE 2396646 dated 13.04.2024 (Annexure-B) of the Appellant/ Claimant are valid documents and further the name of the the Appellant/ Claimant appears in the Voter List of the year's 2014 and 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 (Annexure-K to

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Annexure-T) and further the reasons for his name having not reflected in the Voter List of the years 2012 & 2013 & of the year of survey (2023) has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds for rejection, namely, **"1. The name of the applicant has not been found in year of survey even though her name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid"** communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 25.07.2024 (Annexure-X) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority and consequently, the EDC Note dated 13.02.2024 (Annexure-W) and also the Rejection Order dated 25.07.2024 (Annexure-X) are not sustainable being erroneous, wrong and against the facts.

(e) The material placed on file also shows that the Appellant/Claimant has also tendered his Driving Licence (Annexure-E) as well as the Voter ID Card (Annexure-F) & Aadhar Card (Annexure-G) of his wife Arti and also the Passbook of Bank of India (Annexure-H) and School Certificate (Annexure-I) in support of his claim. The Driving Licence (Annexure-E) of the Appellant/Claimant has been issued on 27.07.2017 and further, it has been issued on the address of the Jhuggi No. 6R, C-33, Kali Bari, RML Delhi, regarding which the Appellant/Claimant has been claiming allotment from DDA. The Voter ID Card No. SJE 2436871 (Annexure-F) of his wife Arti has been issued on 17.08.2024 and her Aadhar Card (Annexure-G) is bearing No. 2200 2803 9590 and it has been issued on 30.04.2015. Furthermore, both the documents (Annexure-F & Annexure-G) have also been issued on the address of the Jhuggi No. 6R, C-33, Kali Bari, RML, Delhi, regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of Bank of India (Annexure-H) shows that the Appellant/Claimant has opened the account on 08.10.2012, much prior to the cutoff date of 01.01.2015 and further the account has been opened on the address of the Jhuggi No. 6R, C-33, Kali Bari, RML, Delhi, regarding which the Appellant/Claimant has been claiming allotment from DDA. The School Certificate (Annexure-I) pertains to the Appellant/Claimant thereby showing that in the Academic Session of 2014 -2015 in the school records of Atal Adarsh Bal Vidyalaya, Mandir Marg, New Delhi where he had studied up to 12th class, his address was recorded to be C-33/R-6, Kali Bari, RML, Delhi,

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regarding which the Appellant/Claimant is claiming allotment from DDA and further in the School Record, his date of birth is recorded to be 15.08.1995 and the same is also corroborated by other documents viz. Annexure-B to Annexure-E. Further, it is pointed out that these documents (Annexure-E to Annexure-I) have been issued on the address of the Jhuggi No. 6R, C-33, Kali Bari, RML Delhi, regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, all these documents shows that the Appellant/Claimant as well as his family members are having their respective Voter ID Cards, Aadhar Cards as well as they are also maintaining Bank Account and also having Driving Licence & School Records and it corroborates that the Appellant/Claimant along with his family have been living jointly in the said single storey Jhuggi No. 6R, C-33, Kali Bari, RML Delhi.

(f) The material placed on file shows that the Driving Licence (Annexure-E), Passbook of Bank of India (Annexure-H) and School Certificate (Annexure-I) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that the Appellant/Claimant has tendered his documents and also of his family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Driving Licence, School Records and Bank Passbook etc. and all these documents (Annexure-A to Annexure-T) have been issued from 2014 to 2024 and it accordingly amply establishes that he as well as his family members have been living jointly in the single storey Jhuggi No. 6R, C/33, Kali Bari, RML Hospital, Delhi, since long and more particularly on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015 and even till the demolition of the said Jhuggi in the year 2024. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/Claimant was having all the requisite documents and accordingly the Appellant/Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

85. As already pointed out above the survey records & the video clips prepared by the survey team of DDA and the statement of the Appellant/Claimant clearly shows that the single storey Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 and regarding the said single storey Jhuggi, which has been found to be single dwelling unit, the Appellant/Claimant has sought allotment from DDA but his claim was rejected by EDC on 13.02.2024 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide

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Rejection Order dated 25.07.2024 (Annexure-X) whereby two reasons for rejection are mentioned to be **"1. The name of the applicant has not been found in year of survey even though his name appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015). 2. The voter card submitted by the applicant not found valid."**. It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. 6R/C-33, Kali Bari, RML Hospital, Delhi of the Appellant/Claimant. However, the grounds of rejection have been wrongly & erroneously mentioned in the Rejection Order dated 25.07.2024 (Annexure-X) because it is pertinent to point that the remarks given in the EDC Note dated dated 13.02.2024 (Annexure-W) are self-contradictory because on the one hand it is mentioned that the Voter ID Card of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. Further, as per our discussion above it has been found by this Appellate Authority that the Appellant/Claimant has claimed allotment against the single storey Jhuggi No. C-33/R-10, Kali Bari, RML Hospital, Delhi, which constitute single dwelling unit, and further he was having valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. 6R/C-33, Kali Bari, RML, Delhi regarding which he has been claiming allotment from DDA and further his name also appears continuously in the voter list of the year's 2014, 2015 (prior to 01-01-2015), 2016, 2017, 2018, 2019, 2020, 2021, 2022 & 2024 and the reasons for not tendering the Voter List of the years 2012, 2013 & 2023 (year of survey) is well explained in the present case and further he was having "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015 but all these relevant facts were not duly considered by EDC. Hence, the ground of rejection **"Name of the applicant appears in voter list of years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The voter card submitted by the applicant not found valid"** as reflected in the EDC Note dated 13.02.2024 (Annexure-W) as well as in the Rejection Order dated 25.07.2024 (Annexure-X) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority.

86. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 11-KB/2024 stands allowed, hereby,

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setting aside the impugned order communicated vide order bearing No. F2(ISR)RML/32/2023 dated 25.07.2024 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant Rajesh S/o Mool Chand in respect of the single storey Jhuggi No. 6R/C-33, which constitute single dwelling unit, Kali Bari, RML Hospital, Delhi.

87. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. 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 GOLDEN PARK, RAM PURA, DELHI

Appeal No: 17-GP/2024

Date of Institution: 04.11.2024

Date of Order: 27.02.2025

Present: Appellant/ Claimant Ajay S/o Shyam Lal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 09.11.2024 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. 3 Golden Park, Ram Pura, Delhi. A Public Notice by DDA was pasted in the Golden Park, Ram Pura, Delhi to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park, Ram Pura, Delhi. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. 3 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Golden Park, Ram Pura, Delh duly

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communicated its order bearing Survey Number F01/IEL/ISR/PMAY/DDA/277 dated 09.11.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 17-GP/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 28.11.2024 The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records the Jhuggi bearing No. 3 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. 3 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ajay has been recorded before us on 28.11.2024 wherein he has stated that his parents, Shyam Lal & Santo, are having four sons, Baljeet,

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Saljeet, Ajay & Ashik and two daughters Gita & Nitu. All the children are married. Gita is married with Rajesh and she is living in her matrimonial home in Mangolpuri, Delhi. Nitu is married with Karmbir and she is living in her matrimonial home in Azadpur, Delhi. Baljeet is married with Gita and having two children, Uday & Tanya. Ashik is married with Sheetal and having three children Saina, Arohi & Aarav. Saljeet is married with Sanjana and having two children, Roman & Sanonya. Ajay (Appellant/Claimant) is married with Anisha and having two children, Shivam & Ayansh.

9. The Appellant/Claimant has stated that his family is having three separate and independent Jhuggis in Golden Park, Ram Pura, Delhi. All the Jhuggis are single storey structures. The Jhuggis are bearing number 03, 04 & 70.

Claim of Ashik against the Jhuggi No. 04

10. The Appellant/Claimant has stated that Jhuggi No. 04, Golden Park, Ram Pura, Delhi is a single storey Jhuggi and in that Ashik along with his family is living and regarding that Ashik has sought allotment from DDA against the Jhuggi No. 04 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 34-GP of 2024 before the Appellate Authority for redressal and the same is still pending. These facts are not disputed by DDA.

Jhuggi No. 70

11. The Appellant/Claimant has stated that Jhuggi No. 70, Golden Park, Ram Pura, Delhi is a single storey structure and it comprises of one pucca room and a kuchcha chappar, which is not having any proper door. The kuchcha chappar has been placed outside the pucca room and furthermore, in order to reach the pucca room one has to pass through the kuchcha chappar because the pucca room and the kuchcha chappar are not having separate access from the gali.

Allotment in favour of Baljeet against the Pucca Room of Jhuggi No. 70

12. The Appellant/Claimant has stated that his brother Baljeet along with his family is living in the pucca room bearing Jhuggi No. 70 and regarding that DDA has made allotment in favour of Baljeet. These facts are not disputed by DDA.

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Claim of Santo against the Kuchcha Chappar bearing Jhuggi No. 70

13. The Appellant/Claimant has stated that his mother Santo along with her husband Shyam Lal is living in the kuchcha chappar, which has been placed outside the pucca room bearing Jhuggi No. 70, Golden Park, Ram Pura, Delhi of her son Baljeet. Santo has sought allotment from DDA against the said single story kuchcha chappar bearing Jhuggi No. 70 but her claim has been rejected by the Eligibility Determination Committee and accordingly aggrieved by the same she has filed the present Appeal No. 38-GP of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. 3 of Saljeet and Ajay

14. The Appellant/Claimant has stated that Jhuggi No. 3, Golden Park, Ram Pura, Delhi is a single storey structure and it is having two interconnected rooms. The rear room is not having an independent access to the gali (street) but in order to reach the rear room one has to pass through the front room. Thus both the rooms are part & parcel of the same dwelling unit. In the front room, Saljeet along with his family is living whereas Ajay along with his family is living in the rear room.

Claim of Saljeet against the Front Room of Jhuggi No. 3

15. The Appellant/Claimant has stated that Saljeet along with his family is living in the front room of Jhuggi No. 3, Golden Park, Ram Pura, Delhi and regarding that he has sought allotment from DDA against the front room of the said single storey Jhuggi No. 03 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 39-GP of 2024 before the Appellate Authority for redressal and the same is still pending. These facts are not disputed by DDA.

Claim of Ajay against the Rear Room of Jhuggi No. 3

16. The Appellant/Claimant has stated that he along with his wife Anisha and both the children, Shivam & Ayansh, is living in the rear room of Jhuggi No. 3, Golden Park, Ram Pura, Delhi. The Appellant/Claimant has sought allotment from DDA against the rear room of the said single storey Jhuggi No. 3 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter Id Card could not be verified in spite of the fact that both the room are separate dwelling units and further the Appellant/Claimant is having all the requisite documents as per the policy guidelines issued by DDA and accordingly

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aggrieved by the same he has filed the present Appeal No. 17-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in her favour.

17. It is pointed out that all the four appeals bearing Appeal No. 17-GP of 2024, Appeal No. 34-GP of 2024, Appeal No. 38-GP of 2024 and Appeal No. 39-GP of 2024 shall be decided separately on their individual merits.

18. As pointed out above, it is the admitted fact that as per survey records the Jhuggi bearing No. 3 was found to exist but the Appellant/ Claimant had failed to submit required documents 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 11.09.2024 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.

19. We have to understand what is the concept of "Double allotment against the same Jhuggi" under the policy guidelines issued by DDA. The DDA policy is based on the principle of "One dwelling unit - One allotment". There may be one claim or several claims for seeking allotment against one dwelling unit. It is not disputed that "Consideration for Allotment" and "Actual Allotment" are two different things. Similarly, "Double Claim or Double Applicants against the same Jhuggi" and "Double allotment against the same Jhuggi" are two different things. The EDC has to consider the claims of the respective applicants as per the eligibility criteria laid down in the policy guidelines issued by DDA and then to determine whether he is entitled for allotment. When EDC finally decides to make allotment in favour of one of the applicants then it can reject the claims of the remaining applicants on the grounds of double allotment because the DDA policy debars double allotment against the same Jhuggi. Thus the allotment in favour of one of the dwellers precludes allotment to other applicants against that very Jhuggi on the ground of double allotment. But when EDC had only considered the claim of one of the claimants without making allotment in his favour then the mere fact of having considered his claim does not preclude allotment to other applicants against that very Jhuggi on the ground of double allotment. When there is more than one claim against the

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same Jhuggi but no allotment is actually made by DDA then it falls under the category of "Double Claim or Double Applicants against the same Jhuggi" but it does not fall under the category of "Double allotment against the same Jhuggi" for the second claimant till DDA had made allotment to the first claimant. Thus allotment in favour of one claimant is a pre-requisite for rejecting the claim of another claimant on the ground of "Double allotment against the same Jhuggi". Any other interpretation would result into injustice because it may even result in not making even one allotment against a particular Jhuggi because the claim of the first claimant is only considered without allowing his claim on merits whereas the claim of the second claimant is rejected on technical grounds of double allotment without considering his claim on merit and also ignoring the material facts that DDA had not made allotment in favour of the first claimant. Merely considering the claim of the first claimant without making allotment in his favour does not justifies the rejection of the second claimant on technical grounds of "Double allotment against the same Jhuggi".

20. Accordingly, practically there may be more than one claims against one specific Jhuggi but mandatorily there has to be only one allotment against that very Jhuggi because second or double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA. The "Double allotment against the same Jhuggi" connotes the situation when DDA has already made allotment in favour of one of the eligible applicants and accordingly the subsequent claim(s) by some other person(s)/claimant(s) against that very Jhuggi are debarred on the grounds of double allotment. Accordingly, there being more then one claims against the same Jhuggi ipso facto does not give rights to EDC to reject the other claims under "Double allotment against the same Jhuggi" until DDA had already decided to make allotment in favour of one of the applicants. Thus if there are two claims against one Jhuggi and DDA has not made allotment in favour of the first claimant then the claim of the second claimant cannot be rejected on the ground of double allotment simply because the Jhuggi was surveyed twice or the claim of the first claimant had already been considered but the EDC is duty bound to decide the eligibility of the other claimant on merits thereby taking into consideration as to whether DDA has made allotment in favour of one of the earlier applicant against that very Jhuggi or not. The result would have been different if on consideration of the eligibility, EDC had decided to make allotment in favour of the first claimant then the claim of the second claimant can be certainly rejected on the grounds of double allotment. But when no allotment is made by DDA in favour of the first claimant even after due

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consideration of his claim then the claim of second claimant cannot be rejected on the ground of "Double Allotment against the same Jhuggi" because in that eventuality the question of double allotment against the same Jhuggi does not arise since no allotment has been made against that Jhuggi and it falls under the category of "Double Claim or Double Applicants against the same Jhuggi" and not under the category of "Double allotment against the same Jhuggi". In view of the matter the terms "Consideration for Allotment" and "Allotment" are not synonymous but two different terms and they are part of the same process. The EDC has to determine the eligibility of the dwellers as per the criteria fixed by the policy guidelines issued by DDA. The claims of all the applicants are required to be considered for allotment and the process is culminated in making allotment or declining to make allotment. When after consideration of the claim EDC decides to make allotment in favour of one of the applicants then the claim(s) of the remaining applicant(s) deserves to be rejected on the ground of double allotment because double allotment is not permissible against the same Jhuggi as per the policy guidelines issued by DDA. However, after consideration of the claim of one of the applicant the EDC decides not to make allotment in his favour then in that eventuality the claim of the other applicants cannot be rejected on the grounds of double allotment because there is in fact no allotment made by DDA in favour of the earlier claimant as his claim was only considered but it had not culminated in making allotment in his favour. In view of the matter the claim of the other applicant/claimant deserves to be decided on their individual merits as per the policy guidelines issued by DDA and his claim cannot be rejected on the ground of "Double allotment against the same Jhuggi".

21. In the light of our discussion above, we shall appraise the material placed on file to determine whether it is a case of "Double allotment against the same Jhuggi" or only falls under the category of "Double Claim or Double Applicants against the same Jhuggi".

22. It is pertinent to point out that the Appellant/Claimant has categorically stated that Jhuggi No. 3, Golden Park, Ram Pura, Delhi is a single storey structure and it comprises of two interconnected rooms and furthermore, in order to reach the rear room, one has to pass through the front room. Thus the statement of the Appellant/Claimant shows that the interconnected rooms on the ground floor of the Jhuggi No. 3, Golden Park, Ram Pura, Delhi are not separate and independent dwelling units because the in order to reach the rear room, one has to pass through the front room as both the rooms are not having separate

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independent access from the gali. However, in order to reach the rear room, one has to pass through the front room. Accordingly, the interconnected rooms bearing Jhuggi No. 3 are not separate & independent dwelling units but they constitute one dwelling unit belonging to the present Ajay Appellant/Claimant, who is the brother of Saljeet, for all purposes.

23. DDA has furnished the survey records along with three video clips of Jhuggi No. 03, 04 & 70. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 28.11.2024 wherein the Appellant/Claimant has stated the first video clip pertains to the Jhuggi No. 03 of Saljeet & Ajay (Appellant/Claimant) in which Saljeet along with his wife Sanjana is seen and further Jhuggi No. 03 is clearly seen to be single storey structure having roof made with *"Bali & Wooden Planks"* and two interconnected rooms are seen and further Saljeet is heard stating that there are two interconnected rooms and further there are two surveys of Saljeet & his brother Ajay and furthermore, Saljeet is seen holding a slate in his hand on which **"03 SALJEET & AJAY (P) G.F"** is seen to have been written. The second video clip pertains to Jhuggi No. 04 of Ashik in which the Jhuggi No. 04 is clearly seen to be a single storey structure having roof made with *"Bali & Wooden Planks"* and in this video Ashik along with his wife Sheetal is seen and further Ashik is seen holding a slate in his hand on which **"T-4 ASHIK (P) G.F"** is seen to have been written. The third video clip pertains to the Jhuggi No. 70 in which his mother Santo with her husband Shyam Lal and grandson Uday S/o Baljeet, is seen and further Jhuggi No. 70 is clearly seen to be a kuchcha chappar placed outside the pucca room and further Santo is seen holding a slate in her hand on which **"70/T-3 SANTO & BALJIT (P) G.F"** is seen to have been written.

24. The statement of the Appellant/Claimant is a clincher piece of evidence because he has specifically stated that Jhuggi No. 03 is a single storey structure and it comprises of two interconnected rooms and further in order to reach the rear room, one has to pass through the front room. Accordingly, the interconnected rooms bearing Jhuggi No. 3 are not separate & independent dwelling units but they constitute one dwelling unit belonging to Ajay (Appellant/Claimant), who is the brother of Saljeet, for all purposes. It is also pointed out that in the first video clip, which pertains to the Jhuggi No. 03, Saljeet along with his wife Sanjana is seen and further Jhuggi No. 03 is clearly seen to be single storey structure having roof made with *"Bali & Wooden Planks"* and two interconnected rooms are seen and further Saljeet is heard stating that there are two interconnected rooms and further there are two surveys of Saljeet & his brother Ajay and furthermore, Saljeet is seen holding a slate in his

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hand on which **"03 SALJEET & AJAY (P) G.F"** is seen to have been written and this shows that single survey was conducted by the Appellant/Claimant Ajay as well as his brother Saljeet and that is why **"03 SALJEET & AJAY (P) G."** is seen to have been written on the slate, thereby, showing that the Appellant/Claimant as well as his brother Saljeet were living jointly because the interconnected rooms constitute single dwelling unit. Moreover, the Appellant/Claimant has admitted that his brother Saljeet has also sought allotment from DDA and since the interconnected rooms are part & parcel of the same dwelling unit, therefore, Saljeet is not entitled to claim allotment against the said Jhuggi No. 3 because he was living jointly with his brother Ajay (Appellant/Claimant) and further double allotment is not permissible as per the policy guidelines issued by DDA.

25. Furthermore, as pointed out above, it has been found that on the cutoff date of 01.01.2015 Saljeet was not living separately & independently in the interconnected rooms but he was living jointly with the family of the Appellant/Claimant Ajay in the interconnected rooms of Jhuggi No. 3 and Saljeet has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further the interconnected rooms of the single storey Jhuggi No. 3, Golden Park, Ram Pura, Delhi have been found to be part & parcel of the same dwelling unit and further the Appellant/Claimant Ajay has also sought allotment from DDA and since the interconnected rooms are part & parcel of the same dwelling unit, therefore, Saljeet, who is the brother of the present Appellant/Claimant is not entitled to claim allotment against the said Jhuggi No. 3 because he was living jointly with the Appellant/Claimant Ajay and further double allotment is not permissible as per the policy guidelines issued by DDA.

26. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. 3, Golden Park, Ram Pura, Delhi on the cutoff date 01.01.2015 and the Appellant/Claimant using the same for residential purposes.

27. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. 3 was in existence in the Golden Park, Ram Pura Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

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28. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the kuchcha chappar placed outside the pucca room of Jhuggi No. 03, Golden Park, Ram Pura, Delhi 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-G in support of his claim and prayed that DDA be directed to make allotment in his favour.

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

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

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

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

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

31. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the

Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

35. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card,

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

38. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

43. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon

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

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

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

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(prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

53. It is pointed out that we have already held that the single storey Jhuggi No 3 was in existence in Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single

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storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

54. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. 3 Golden Park, Ram Pura, Delhi as per the policy guidelines issued by DDA.

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

56. It is pointed out that the Appellant/Claimant has specifically stated that he is not having Voter ID Card issued on the address of Jhuggi No. 3 regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly the question of his name appearing in the Vote List of the years from 2012 to 2015 does not arise since he is not having a valid Voter ID Card. The Appellant/Claimant has tendered his Aadhar Card No. 5277 7830 7550 (Annexure-A) and it has been issued on 03.01.2013.

57. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. 3 Golden Park, Ram Pura, Delhi regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

58. The Appellant/Claimant has tendered Aadhar Card (Annexure-C) & PAN Card (Annexure-D) of his wife Anisha, the Cheque Book of Kotak Mahindra Bank (Annexure-E), the Passbook of State Bank of India (Annexure-F) and the Voter ID Card No. DL/03/017/003313 (Annexure-G) of his father Shyam Lal in support of his claim.

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59. It is pointed out that the Appellant/Claimant has tendered Aadhar Card No. 5756 7802 8157 (Annexure-C) of his wife Anisha and it has been issue don 02.11.2012. It is pointed out that the Appellant/Claimant has categorically stated that his wife Anisha is also not having a valid Voter ID Card issued on the address of Jhuggi No. 3 regarding which the Appellant/Claimant has been claiming allotment from DDA. The material placed on file shows that neither the Appellant/Claimant nor his wife Anisha was having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of Jhuggi No. 3 Golden Park, Ram Pura, Delhi regarding which the Appellant/Claimant has been claiming allotment from DDA and further, their names also do not appear in the Voter List of the year from 2012 to 2015.The Cheque Book of Kotak Mahindra Bank (Annexure-E) but the date of issuance is not mentioned in this document. The Passbook of State Bank of India (Annexure-F) shows that his wife Anisha had opened account on 04.03.2020, much after the cutoff date 01.01.2015. The Appellant/Claimant has tendered the Voter ID Card No. DL/03/017/003313 (Annexure-G) of his father Shyam Lal and it has been issued on 22.01.1995 but it has been issued on the address of Jhuggi No. 70, Golden Park, Ram Pura and accordingly it is not relevant because it has not been issued on the address of Jhuggi No. 03 regarding which the Appellant/Claimant has been claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 3 Golden Park, Ram Pura, Delhi, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

61. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 3 Golden Park, Ram Pura, Delhi , regarding which he is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

62. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material 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 Survey Number F01/IEL/ISR/PMAY/DDA/277 dated 09.11.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

63. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court

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of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(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 GOLDEN PARK, RAM PURA, DELHI

Appeal No: 33-GP/2024

Date of Institution: 04.11.2024

Date of Order: 27.02.2025

Present: Appellant/ Claimant Salman S/o Sant Ram

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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-3 Golden Park, Ram Pura, Delhi. A Public Notice by DDA was pasted in the Golden Park, Ram Pura, Delhi to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park, Ram Pura, Delhi. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura, Delhi, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. B-3 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/

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Claimant for alternative allotment and the Nodal Officer, Golden Park, Ram Pura, Delhi, duly communicated its order bearing Survey Number F01/IEL/ISR/PMAY/DDA/292 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 33-GP/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 28.11.2024 The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records the Jhuggi bearing No. B-3 was found to exist on the first floor but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"(1) Ration Card not submitted/Upper Floor. (2) Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & 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 the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the Jhuggi No. B-3 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Salman has been recorded before us on 28.11.2024 wherein he has stated that his parents; Sant Ram & Gutia, are having three sons; Gopi, Vishal & Salman and two daughters; Heena & Sanjana. Both the daughters; Heena & Sanjana are unmarried. Gopi is married with Nandini and Vishal is married with Naina and they are not having any issues out of the wedlock. Salman (Appellant/Claimant) is married with Roopa and having three children; Varun, Anek & Niti.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-3, Golden Park, Ram Pura, Delhi and it comprise of one room on each floor and a pucca staircase is constructed inside the room on the ground floor and it is used for going to the upper floor and accordingly, both the floors are the part & parcel of the same dwelling unit. The room on the first floor is not having direct access to the gali but one has to go through the room on the ground floor and then taking the staircase one has to reach to the first floor. Thus both the floors are part & parcel of the same dwelling unit. and accordingly, both the floors are the part & parcel of the same dwelling unit. The Appellant/Claimant has also stated that his parents; Sant Ram & Gutia, along with both the unmarried daughters; Heena & Sanjana as well as families of their sons Gopi & Vishal are living on the ground floor of the Jhuggi No. B-3 whereas the Appellant/Claimant along with his wife Roopa and all the three children; Varun, Anek & Niti is living on the first floor of the said Jhuggi No. B-3.

10. Thus the statement of the Appellant/Claimant shows that the first floor of the Jhuggi No. B-3, Golden Park, Ram Pura, Delhi 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. Accordingly, the ground & first floors of Jhuggi No. B-3 are not separate & independent dwelling units but they constitute one dwelling unit belonging to his parents; Sant Ram & Gutia, bearing Jhuggi No. B-3 for all purposes.

Allotment made by DDA in favour of Gutia (mother of the Appellant/Claimant)

11. The Appellant/Claimant has stated that his parents; Sant Ram & Gutia along with both the unmarried daughters; Heena & Sanjana as well as families of their sons Gopi & Vishal are living on the ground floor of the Jhuggi No. B-3 and regarding that DDA has made alternative allotment in favour of his mother Gutia. These facts are not disputed by DDA.

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Claim made by the Appellant/Claimant

12. The Appellant/Claimant has stated that he along with his wife Roopa and all the three children; Varun, Anek & Niti is living on the first floor of the Jhuggi No. B-3 and regarding that the Appellant/Claimant has sought alternative allotment from DDA but his claim was rejected by Eligibility Determination Committee on the ground that he was not having a separate Ration Card despite the fact that he has claimed alternative allotment against the first floor and further, his Voter ID Card could not be verified in spite of the fact that he has admittedly sought alternative allotment against the first floor of the Jhuggi No. B-3 and further, he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 33-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also 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. DDA has tendered the survey records along with two video clip pertaining to the Jhuggi No. B-3 and the same were played before the Appellant/Claimant when his statement was recorded before us on 28.11.2024 wherein he has stated that the first video clip pertains to the ground floor of the Jhuggi No. B-3 in which his mother Gutia is seen on the ground floor and her room & kitchen are seen and furthermore, Gutia is also seen holding a slate in her hand on which **"B-3 GUTIA G.F"** is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. B-3 in which a pucca staircase from inside the room on the ground floor is seen to be going to the upper floor and further, the Appellant/Claimant is seen and getting the survey conducted and his room and kitchen on the first floor are seen and furthermore, the Appellant/Claimant is seen and his room & kitchen on the first floor are seen and furthermore, he is seen holding a slate in his hand on which **"B-3 SALMAN F.F"** is seen to have been written.

14. It is pointed out that the video clips prepared by the survey team of DDA also corroborates the statement of the Appellant/Claimant to the effect that the Jhuggi No. B-3 is clearly seen to be a double storey structure and it comprise of a kitchen & one room on the ground floor and one room on the first floor and further the first floor is not having access from the street but it is having access from the pucca staircase, which has been constructed inside the room

the ground floor and it is used for going to the upper floor. Thus both the floors of the double storey Jhuggi No. B-3 are part & parcel of the same dwelling unit. Furthermore, DDA has made allotment in favour of his mother Gutia against the said double storey Jhuggi No. B-3 which is a single dwelling unit and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA. It accordingly shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. B-3 but he was living jointly with his parents in the Jhuggi No. B-3. But the Appellant/Claimant has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook. Therefore, the Appellant/Claimant is not eligible to claim alternative allotment as per the policy guidelines issued by DDA.

15. Furthermore, as pointed out above, it has been found that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. B-3 but he was living jointly with his parents in the Jhuggi No. B-3 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further both the floors of the double storey Jhuggi No. B-3, Golden Park, Ram Pura, Delhi has been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of his mother Gutia against the said double storey Jhuggi No. B-3, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the

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first floor of the double storey Jhuggi No. B-3, Golden Park, Ram Pura, Delhi 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-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. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut-off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing Survey Number F01/IEL/ISR/PMAY/DDA/292 dated 11.09.2024.

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.

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

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

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

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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."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

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FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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

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

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

have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

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

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

42. It is pointed out that we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. B-3 but he was living jointly with his parents in the Jhuggi No. B-3 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further both the floors of the double storey Jhuggi No. B-3, Golden Park, Ram Pura, Delhi has been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of his mother Gutia against the said double storey Jhuggi No. B-3, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA. But despite that the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi No. B-3, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. B-3, Golden Park, Ram Pura, Delhi, as per the policy guidelines issued by DDA.

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

45. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing number URU 1937044 and it has been issued on 26.04.2019, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the year 2012 to 2015 does not arise. Further, his Aadhar Card (Annexure-B) is bearing No. 8864 4610 6516 and it has been issued on 16.01.2013.

46. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. B-3, Golden Park, Ram Pura, Delhi, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The Appellant/Claimant has specifically stated that he is not having a separate Ration Card issued in his name on the address of the first floor of the Jhuggi No. B-3, regarding which he is claiming alternative allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. B-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.

48. The Appellant/Claimant has tendered Voter ID Card (Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E) & e-SHRAM Card (Annexure-F) of his wife Rupa, Electricity Bill (Annexure-G) and Certificate (Annexure-H), Pass book of Bank of Bafroda(Annexure-I) in support of his claim.

49. It is pointed out that the Voter ID Card No. URU 2252112 (Annexure-C) of his wife Rupa has been issued on 23.06.2021, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the year 2012 to 2015 does not arise. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) of his wife Rupa is bearing No. 2510 4348 6537 and it has been issued on 23.10.2019, much after the cutoff

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date of 01.01.2015. The material placed on file accordingly shows that neither the Appellant/Claimant nor his wife Neha was having a valid Voter ID Card issued on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. B-3, Golden Park, Ram Pura, Delhi regarding which the Appellant/Claimant is claiming alternative allotment from DDA and further, their names also do not appear in any of the Voter Lists and more particularly in the years from 2012 to 2015. Further, the Appellant/Claimant has tendered the e-SHRAM Card Card (Annexure-F) of his wife Rupa but the date of issuance is not mentioned in this document. The Electricity Bill (Annexure-G) shows that his wife Rupa had taken the electricity connection on 01.10.2023, much after the cutoff date of 01.01.2015. The Certificate (Annexure-H) has been issued by Delhi Building and other Construction Worker Welfare Board on 21.07.2022, much after the cutoff date of 01.01.2015. The Pass Book of Bank of Baroda (Annexure-I) in the name of his wife Roopa shows that account was opened on 05.03.2021, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. B-3 regarding which he has been claiming allotment from DDA, and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, and further we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. B-3 but he was living jointly with his parents in the Jhuggi No. B-3 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further both the floors of the double storey Jhuggi No. B-3, Golden Park, Ram Pura, Delhi has been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of his mother Gutia against the said double storey Jhuggi No. B-3, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA.

50. The material placed before us also shows that the Eligibility Determination Committee (EDC)

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

51. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. B-3 regarding which he has been claiming allotment from DDA, and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, and further we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. B-3 but he was living jointly with his parents in the Jhuggi No. B-3 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further both the floors of the double storey Jhuggi No. B-3, Golden Park, Ram Pura, Delhi has been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of his mother Gutia against the said double storey Jhuggi No. B-3, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention

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

52. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing "Survey Number F01/IEL/ISR/PMAY/DDA/292 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

53. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. 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 GOLDEN PARK, RAM PURA, DELHI

Appeal No: 38-GP/2024

Date of Institution: 04.11.2024

Date of Order: 27.02.2025

Present: Appellant/ Claimant Santo S/o Shyam Lal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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. 70 Golden Park, Ram Pura, Delhi. A Public Notice by DDA was pasted in the Golden Park, Ram Pura to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park, Ram Pura, Delhi. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. 70 was found to exist but it was found to be a case of double allotment against the same Jhuggi and further 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, Golden Park, Ram Pura, Delhi, duly communicated its order bearing "Survey Number

F01/IEL/ISR/PMAY/DDA/287 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 38-GP/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 28.11.2024 The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records the Jhuggi bearing No. 70 was found to exist but it was found to be a case of double allotment against the same Jhuggi and further 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 has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"Dual Allotment in place of one Jhuggi not permissible"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether it was a case of double allotment against the same Jhuggi and further whether she is entitled to claim allotment against the Jhuggi No. 70 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Santo has been recorded before us on 28.11.2024 wherein she has stated that she is married with Shyam Lal and having four sons, Baljeet, Saljeet, Ajay & Ashik and two daughters Gita & Nitu. All the children are married. Gita is married with Rajesh and she is living in her matrimonial home in Mangolpuri, Delhi. Nitu is married with Karmbir and she is living in her matrimonial home in Azadpur, Delhi. Baljeet is married with Gita and having two children, Uday & Tanya. Saljeet is married with Sanjana and having two children, Roman & Sanonya. Ajay is married with Anisha and having two children, Shivam & Ayansh. Ashik is married with Sheetal and having three children Saina, Arohi & Aarav.

9. The Appellant/Claimant has stated that his family is having three separate and independent Jhuggis in Golden Park, Ram Pura, Delhi. All the Jhuggis are single storey structures. The Jhuggis are bearing number 03, 04 & 70.

Jhuggi No. 03 of Saljeet and Ajay

10. The Appellant/Claimant has stated that Jhuggi No. 03, Golden Park, Ram Pura, Delhi is a single storey structure and it is having two interconnected rooms. The rear room is not having an independent access to the gali (street) but in order to reach the rear room one has to pass through the front room. Thus both the rooms are part & parcel of the same dwelling unit. In the front room, Saljeet along with his family is living whereas Ajay along with his family is living in the rear room.

Claim of Saljeet against the Front Room of Jhuggi No. 03

11. The Appellant/Claimant has stated that Saljeet along with his family is living in the front room of Jhuggi No. 03, Golden Park, Ram Pura, Delhi and regarding that he has sought allotment from DDA against the front room of the said single storey Jhuggi No. 03 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 39-GP of 2024 before the Appellate Authority for redressal and the same is still pending. These facts are not disputed by DDA.

Claim of Ajay against the Rear Room of Jhuggi No. 03

12. The Appellant/Claimant has stated that Ajay along with his family is living in the rear room of the Jhuggi No. 03, Golden Park, Ram Pura, Delhi and regarding that he has sought allotment from DDA against the rear room of the said single storey Jhuggi No. 03 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed

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the present Appeal No. 17-GP of 2024 before the Appellate Authority for redressal and the same is still pending. These facts are not disputed by DDA.

Claim of Ashik against the Jhuggi No. 04

13. The Appellant/Claimant has stated that Jhuggi No. 04, Golden Park, Ram Pura, Delhi is a single storey Jhuggi and in that Ashik along with his family is living and regarding that Ashik has sought allotment from DDA against the Jhuggi No. 04 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 34-GP of 2024 before the Appellate Authority for redressal and the same is still pending. These facts are not disputed by DDA.

Jhuggi No. 70

14. The Appellant/Claimant has stated that Jhuggi No. 70, Golden Park, Ram Pura, Delhi is a single storey structure and it comprises of one pucca room and a kuchcha chappar, which is not having any proper door. The kuchcha chappar has been placed outside the pucca room and furthermore, in order to reach the pucca room one has to pass through the kuchcha chappar because the pucca room and the kuchcha chappar are not having separate access from the gali

Allotment in favour of Baljeet against the Pucca Room of Jhuggi No. 70

15. The Appellant/Claimant has stated that her son Baljeet along with his family is living in the pucca room bearing Jhuggi No. 70 and regarding that DDA has made allotment in favour of Baljeet. These facts are not disputed by DDA.

Claim of Santo against the Kuchcha Chappar bearing Jhuggi No. 70

16. The Appellant/Claimant has stated that she along with her husband Shyam Lal is living in the kuchcha chappar, which has been placed outside the pucca room bearing Jhuggi No. 70, Golden Park, Ram Pura, Delhi of her son Baljeet. The Appellant/Claimant has sought allotment from DDA against the said single story kuchcha chappar bearing Jhuggi No. 70 but her claim has been rejected by the Eligibility Determination Committee on the grounds of double allotment against the same Jhuggi No. 70 in spite of the fact that the Kuchcha chappar and the pucca room are separate dwelling units and further the Appellant/Claimant is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 38-GP of 2024 before the Appellate Authority

for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

17. It is pointed out that all the four appeals bearing Appeal No. 17-GP of 2024, Appeal No. 34-GP of 2024, Appeal No. 38-GP of 2024 and Appeal No. 39-GP of 2024 shall be decided separately on their individual merits.

18. As pointed out above, it is the admitted fact that as per survey records the Jhuggi bearing No. 70 was found to exist but it was found to be a case of double allotment against the same Jhuggi and further 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 has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"Dual Allotment in place of one Jhuggi not permissible"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

19. We have to understand what is the concept of "Double allotment against the same Jhuggi" under the policy guidelines issued by DDA. The DDA policy is based on the principle of "One dwelling unit - One allotment". There may be one claim or several claims for seeking allotment against one dwelling unit. It is not disputed that "Consideration for Allotment" and "Actual Allotment" are two different things. Similarly, "Double Claim or Double Applicants against the same Jhuggi" and "Double allotment against the same Jhuggi" are two different things. The EDC has to consider the claims of the respective applicants as per the eligibility criteria laid down in the policy guidelines issued by DDA and then to determine whether he is entitled for allotment. When EDC finally decides to make allotment in favour of one of the applicants then it can reject the claims of the remaining applicants on the grounds of double allotment because the DDA policy debars double allotment against the same Jhuggi. Thus the allotment in favour of one of the dwellers precludes allotment to other applicants against that very Jhuggi on the ground of double allotment. But when EDC had only considered the claim of one of the claimants without making allotment in his favour then the mere fact of having considered his claim does not preclude allotment to other applicants against that very Jhuggi on the ground of double allotment. When there is more than one claim against the same Jhuggi but no allotment is actually made by DDA then it falls under the category of "Double Claim or Double Applicants against the same Jhuggi" but it does not fall under the category of "Double allotment against the same Jhuggi" for the second claimant till DDA had made

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allotment to the first claimant. Thus allotment in favour of one claimant is a pre-requisite for rejecting the claim of another claimant on the ground of "Double allotment against the same Jhuggi". Any other interpretation would result into injustice because it may even result in not making even one allotment against a particular Jhuggi because the claim of the first claimant is only considered without allowing his claim on merits whereas the claim of the second claimant is rejected on technical grounds of double allotment without considering his claim on merit and also ignoring the material facts that DDA had not made allotment in favour of the first claimant. Merely considering the claim of the first claimant without making allotment in his favour does not justifies the rejection of the second claimant on technical grounds of "Double allotment against the same Jhuggi".

20. Accordingly, practically there may be more than one claims against one specific Jhuggi but mandatorily there has to be only one allotment against that very Jhuggi because second or double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA. The "Double allotment against the same Jhuggi" connotes the situation when DDA has already made allotment in favour of one of the eligible applicants and accordingly the subsequent claim(s) by some other person(s)/claimant(s) against that very Jhuggi are debarred on the grounds of double allotment. Accordingly, there being more then one claims against the same Jhuggi ipso facto does not give rights to EDC to reject the other claims under "Double allotment against the same Jhuggi" until DDA had already decided to make allotment in favour of one of the applicants. Thus if there are two claims against one Jhuggi and DDA has not made allotment in favour of the first claimant then the claim of the second claimant cannot be rejected on the ground of double allotment simply because the Jhuggi was surveyed twice or the claim of the first claimant had already been considered but the EDC is duty bound to decide the eligibility of the other claimant on merits thereby taking into consideration as to whether DDA has made allotment in favour of one of the earlier applicant against that very Jhuggi or not. The result would have been different if on consideration of the eligibility, EDC had decided to make allotment in favour of the first claimant then the claim of the second claimant can be certainly rejected on the grounds of double allotment. But when no allotment is made by DDA in favour of the first claimant even after due consideration of his claim then the claim of second claimant cannot be rejected on the ground of "Double Allotment against the same Jhuggi" because in that eventuality the question of double allotment against the same Jhuggi does not arise since no allotment has been made against that Jhuggi and it falls under the category of "Double Claim or Double Applicants against the same Jhuggi" and not

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under the category of "Double allotment against the same Jhuggi". In view of the matter the terms "Consideration for Allotment" and "Allotment" are not synonymous but two different terms and they are part of the same process. The EDC has to determine the eligibility of the dwellers as per the criteria fixed by the policy guidelines issued by DDA. The claims of all the applicants are required to be considered for allotment and the process is culminated in making allotment or declining to make allotment. When after consideration of the claim EDC decides to make allotment in favour of one of the applicants then the claim(s) of the remaining applicant(s) deserves to be rejected on the ground of double allotment because double allotment is not permissible against the same Jhuggi as per the policy guidelines issued by DDA. However, after consideration of the claim of one of the applicant the EDC decides not to make allotment in his favour then in that eventuality the claim of the other applicants cannot be rejected on the grounds of double allotment because there is in fact no allotment made by DDA in favour of the earlier claimant as his claim was only considered but it had not culminated in making allotment in his favour. In view of the matter the claim of the other applicant/claimant deserves to be decided on their individual merits as per the policy guidelines issued by DDA and his claim cannot be rejected on the ground of "Double allotment against the same Jhuggi".

21. In the light of our discussion above, we shall appraise the material placed on file to determine whether it is a case of "Double allotment against the same Jhuggi" or only falls under the category of "Double Claim or Double Applicants against the same Jhuggi".

22. It is pertinent to point out that the Appellant/Claimant has categorically stated that Jhuggi No. 70, Golden Park, Ram Pura, Delhi is a single storey structure and it comprises of one pucca room and a kuchcha chappar, which is not having any proper door. The kuchcha chappar has been placed outside the pucca room and furthermore, in order to reach the pucca room one has to pass through the kuchcha chappar. Thus the statement of the Appellant/Claimant shows that the pucca room and the kuchcha chappar on the ground floor of the Jhuggi No. 70, Golden Park, Ram Pura, Delhi are not separate and independent dwelling units because the kuchcha chappar is without door and it does not come under the definition of dwelling unit and moreover, in order to reach the pucca room one has to pass through the kuchcha chappar as the room & kuchcha chappar are not having separate independent access from the gali. However, in order to reach the pucca room, one has to pass through the kuchcha chappar. Accordingly, the pucca room and the kuchcha chappar bearing Jhuggi No. 70 are not separate

& independent dwelling units but they constitute one dwelling unit belonging to Baljeet, who is the son of the present Appellant/Claimant, for all purposes.

23. DDA has furnished the survey records along with three video clips of Jhuggi No. 03, 04 & 70. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 28.11.2024 wherein the Appellant/Claimant has stated the first video clip pertains to the Jhuggi No. 03 of Saljeet & Ajay in which Saljeet along with his wife Sanjana is seen and further Jhuggi No. 03 is clearly seen to be single storey structure having roof made with *"Bali & Wooden Planks"* and two interconnected rooms are seen and further Saljeet is heard stating that there are two interconnected rooms and further there are two surveys of Saljeet & his brother Ajay and furthermore, Saljeet is seen holding a slate in his hand on which **"03 SALJEET & AJAY (P) G.F"** is seen to have been written. The second video clip pertains to Jhuggi No. 04 of Ashik in which the Jhuggi No. 04 is clearly seen to be a single storey structure having roof made with *"Bali & Wooden Planks"* and in this video Ashik along with his wife Sheetal is seen and further Ashik is seen holding a slate in his hand on which **"T-4 ASHIK (P) G.F"** is seen to have been written. The third video clip pertains to the Jhuggi No. 70 in which the Appellant/Claimant Santo with her husband Shyam Lal and grandson Uday S/o Baljeet, is seen and further Jhuggi No. 70 is clearly seen to be a kuchcha chappar placed outside the pucca room and further the Appellant/Claimant Santo is seen holding a slate in her hand on which **"70/T-3 SANTO & BALJIT (P) G.F"** is seen to have been written.

24. The statement of the Appellant/Claimant is a clincher piece of evidence because she has specifically stated that Jhuggi No. 70 is a single storey structure and it comprises of one pucca room and a kuchcha chappar is placed outside the pucca room and further in order to reach pucca room one has to pass through the kuchcha chappar. Accordingly, the pucca room and the kuchcha chappar bearing Jhuggi No. 70 are not separate & independent dwelling units but they constitute one dwelling unit belonging to Baljeet, who is the son of the present Appellant/Claimant, for all purposes. It is also pointed out that in the third video clip, which pertains to the Jhuggi No. 70 the Appellant/Claimant Santo with her husband Shyam Lal and grandson Uday, who is son of Baljeet, is seen and further Jhuggi No. 70 is clearly seen to be a kuchcha chappar placed outside the pucca room and further the Appellant/Claimant Santo is seen holding a slate in her hand on which **"70/T-3 SANTO & BALJIT (P) G.F"** is seen to have been written and this shows that single survey was conducted by the Appellant/Claimant Santo as well as her son Baljeet and that is why **"70/T-3 SANTO & BALJIT (P) G.F"** is seen to

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have been written on the slate, thereby, showing that the Appellant/Claimant as well as her son Baljeet were living jointly because the Pucca room & the kuchcha chappar constitute single dwelling unit. Moreover, the Appellant/Claimant has admitted that DDA has made allotment in favour of her son Baljeet against the Jhuggi No. 70, Golden Park, Ram Pura, Delhi and since the kuchcha chappar & pucca room are part & parcel of the same dwelling unit, therefore, the Appellant/Claimant is not entitled to claim allotment against the said Chappar because double allotment is not permissible as per the policy guidelines issued by DDA.

25. Furthermore, as pointed out above, it has been found that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently in the kuchcha chappar but she was living jointly with the family of her son Baljeet in the pucca room of Jhuggi No. 70 and she has concocted a wrong & false storey in conspiracy with her family members to maximise allotments from DDA by hook or crook and further both the kuchcha chappar & pucca room of the single storey Jhuggi No. 70, Golden Park, Ram Pura, Delhi have been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of her son Baljeet against the said single storey Jhuggi No. 70, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA.

26. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the kuchcha chappar placed outside the pucca room of Jhuggi No. 70, Golden Park, Ram Pura, Delhi as per the policy guidelines issued by DDA.

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

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

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

35. As already pointed out above different criterion has been provided in the DDA policy for the

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

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

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FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

40. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise

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

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

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

45. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double

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

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

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

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

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

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2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

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

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

51. It is pointed out that we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently in the kuchcha chappar but she was living jointly with the family of her son Baljeet in the pucca room of Jhuggi No. 70 and she has concocted a wrong & false storey in conspiracy with her family members to maximise allotments from DDA by hook or crook and further both the kuchcha chappar & pucca room of the single storey Jhuggi No. 70, Golden Park, Ram Pura, Delhi have been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of her son Baljeet against the said single storey Jhuggi No. 70, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA. But despite that the Appellant/Claimant has claimed alternative allotment from DDA against the kuchcha chappar, which has been placed outside the pucca room of the single storey Jhuggi No. 70, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

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52. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the kuchcha chappar placed outside the pucca room of Jhuggi No. 70, Golden Park, Ram Pura, Delhi as per the policy guidelines issued by DDA.

53. The Appellant/Claimant has tendered her Voter ID Card No. DL/03/017/003209 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

54. It is pointed out that the Voter ID Card No. DL/03/017/003209 (Annexure-A) of the Appellant/Claimant has been issued on 02.04.1995, much prior to the cutoff date 01.01.2015. Furthermore, her Aadhar Card No. 7548 4094 3036 (Annexure-B) has been issued on 27.10.2011, much prior to the cutoff date 01.01.2015 but it is pointed out that the Appellant/Claimant has not tendered any Voter List to show that she has used her Voter ID Card No. DL/03/017/003209 (Annexure-A) to cast vote in any of the elections and more particularly in the years from 2012 to 2015.

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

56. The Appellant/Claimant has tendered Voter ID Card No. DL/03/017/003313 (Annexure-D) & Aadhar Card (Annexure-E) of her husband Shyam Lal, the Electricity Bill (Annexure-F) and the Ration Card (Annexure-G) in support of her claim.

57. It is pointed out that the Voter ID Card No. DL/03/017/003313 (Annexure-D) of her husband Shyam Lal has been issued on 22.01.1995, much prior to the cutoff date 01.01.2015 and his Aadhar Card No. 4635 0800 6332 (Annexure-E) has also been tendered but the date of issuance is not mentioned. It is also pointed out that the Appellant/Claimant has not tendered any Voter List to show that her husband Shyam Lal had used his Voter ID Card No.

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DL/03/017/003313 (Annexure-D) to cast vote in any of the election and more particularly in the years from 2012 to 2015. The Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken electricity connection on 01.08.2014 and furthermore, the Ration Card No. 077004005432 (Annexure-G) has been issued in favour of the Appellant/Claimant on 20.06.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the name of the Appellant/Claimant does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, and further we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently in the kuchcha chappar but she was living jointly with the family of her son Baljeet in the pucca room of Jhuggi No. 70 and she has concocted a wrong & false storey in conspiracy with her family members to maximise allotments from DDA by hook or crook and further both the kuchcha chappar & pucca room of the single storey Jhuggi No. 70, Golden Park, Ram Pura, Delhi have been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of her son Baljeet against the said single storey Jhuggi No. 70, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA.

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

59. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the name of the Appellant/Claimant does not appear in the voter list

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of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, and further we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently in the kuchcha chappar but she was living jointly with the family of her son Baljeet in the pucca room of Jhuggi No. 70 and she has concocted a wrong & false storey in conspiracy with her family members to maximise allotments from DDA by hook or crook and further both the kuchcha chappar & pucca room of the single storey Jhuggi No. 70, Golden Park, Ram Pura, Delhi have been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of her son Baljeet against the said single storey Jhuggi No. 70, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

60. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material 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 Survey Number F01/IEL/ISR/PMAY/DDA/287 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. 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 GOLDEN PARK, RAM PURA, DELHI

Appeal No: 39-GP/2024

Date of Institution: 04.11.2024

Date of Order: 27.02.2025

Present: Appellant/ Claimant Saljeet S/o Shyam Lal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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. 3, Golden Park, Ram Pura, Delhi. A Public Notice by DDA was pasted in the Golden Park, Ram Pura to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park, Ram Pura, Delhi. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. 3 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal

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Officer, Golden Park, Ram Pura, Delhi, duly communicated its order bearing Survey Number F01/IEL/ISR/PMAY/DDA/290 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 39-GP/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 28.11.2024 The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records the Jhuggi bearing No. 3 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. 3 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Saljeet has been recorded before us on 28.11.2024

wherein he has stated that his parents, Shyam Lal & Santo, are having four sons, Baljeet, Saljeet, Ajay & Ashik and two daughters Gita & Nitu. All the children are married. Gita is married with Rajesh and she is living in her matrimonial home in Mangolpuri, Delhi. Nitu is married with Karmbir and she is living in her matrimonial home in Azadpur, Delhi. Baljeet is married with Gita and having two children, Uday & Tanya. Ajay is married with Anisha and having two children, Shivam & Ayansh. Ashik is married with Sheetal and having three children Saina, Arohi & Aarav. Saljeet (Appellant/Claimant) is married with Sanjana and having two children, Roman & Sananya.

9. The Appellant/Claimant has stated that his family is having three separate and independent Jhuggis in Golden Park, Ram Pura, Delhi. All the Jhuggis are single storey structures. The Jhuggis are bearing number 03, 04 & 70.

Claim of Ashik against the Jhuggi No. 04

10. The Appellant/Claimant has stated that Jhuggi No. 04, Golden Park, Ram Pura, Delhi is a single storey Jhuggi and in that Ashik along with his family is living and regarding that Ashik has sought allotment from DDA against the Jhuggi No. 04 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 34-GP of 2024 before the Appellate Authority for redressal and the same is still pending. These facts are not disputed by DDA.

Jhuggi No. 70

11. The Appellant/Claimant has stated that Jhuggi No. 70, Golden Park, Ram Pura, Delhi is a single storey structure and it comprises of one pucca room and a kuchcha chappar, which is not having any proper door. The kuchcha chappar has been placed outside the pucca room and furthermore, in order to reach the pucca room one has to pass through the kuchcha chappar because the pucca room and the kuchcha chappar are not having separate access from the gali.

Allotment in favour of Baljeet against the Pucca Room of Jhuggi No. 70

12. The Appellant/Claimant has stated that his brother Baljeet along with his family is living in the pucca room bearing Jhuggi No. 70 and regarding that DDA has made allotment in favour of Baljeet. These facts are not disputed by DDA.

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Claim of Santo against the Kuchcha Chappar bearing Jhuggi No. 70

13. The Appellant/Claimant has stated that his mother Santo along with her husband Shyam Lal is living in the kuchcha chappar, which has been placed outside the pucca room bearing Jhuggi No. 70, Golden Park, Ram Pura, Delhi of her son Baljeet. Santo has sought allotment from DDA against the said single story kuchcha chappar bearing Jhuggi No. 70 but her claim has been rejected by the Eligibility Determination Committee and accordingly aggrieved by the same she has filed the present Appeal No. 38-GP of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. 03 of Saljeet and Ajay

14. The Appellant/Claimant has stated that Jhuggi No. 03, Golden Park, Ram Pura, Delhi is a single storey structure and it is having two interconnected rooms. The rear room is not having an independent access to the gali (street) but in order to reach the rear room one has to pass through the front room. Thus both the rooms are part & parcel of the same dwelling unit. In the front room, Saljeet along with his family is living whereas Ajay along with his family is living in the rear room.

Claim of Ajay against the Rear Room of Jhuggi No. 03

15. The Appellant/Claimant has stated that Ajay along with his family is living in the rear room of the Jhuggi No. 03, Golden Park, Ram Pura, Delhi and regarding that he has sought allotment from DDA against the rear room of the said single storey Jhuggi No. 03 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 17-GP of 2024 before the Appellate Authority for redressal and the same is still pending. These facts are not disputed by DDA.

Claim of Saljeet against the Front Room of Jhuggi No. 03

16. The Appellant/Claimant has stated that he along with his wife Sanjana & both the children, Roman & Sanonya, is living in the front room of Jhuggi No. 03, Golden Park, Ram Pura, Delhi. The Appellant/Claimant has sought allotment from DDA against the front room of the said single storey Jhuggi No. 03 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter Id Card could not be verified in spite of the fact that both the room are separate dwelling units and further the Appellant/Claimant is having all

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the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 39-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in her favour.

17. It is pointed out that all the four appeals bearing Appeal No. 17-GP of 2024, Appeal No. 34-GP of 2024, Appeal No. 38-GP of 2024 and Appeal No. 39-GP of 2024 shall be decided separately on their individual merits.

18. As pointed out above, it is the admitted fact that as per survey records the Jhuggi bearing No. 03 was found to exist but the Appellant/ Claimant had failed to submit required documents 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 11.09.2024 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.

19. We have to understand what is the concept of "Double allotment against the same Jhuggi" under the policy guidelines issued by DDA. The DDA policy is based on the principle of "One dwelling unit - One allotment". There may be one claim or several claims for seeking allotment against one dwelling unit. It is not disputed that "Consideration for Allotment" and "Actual Allotment" are two different things. Similarly, "Double Claim or Double Applicants against the same Jhuggi" and "Double allotment against the same Jhuggi" are two different things. The EDC has to consider the claims of the respective applicants as per the eligibility criteria laid down in the policy guidelines issued by DDA and then to determine whether he is entitled for allotment. When EDC finally decides to make allotment in favour of one of the applicants then it can reject the claims of the remaining applicants on the grounds of double allotment because the DDA policy debars double allotment against the same Jhuggi. Thus the allotment in favour of one of the dwellers precludes allotment to other applicants against that very Jhuggi on the ground of double allotment. But when EDC had only considered the claim of one of the claimants without making allotment in his favour then the mere fact of having considered his claim does not preclude allotment to other applicants against that very Jhuggi on the ground of double allotment. When there is more than one claim against the same

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Jhuggi but no allotment is actually made by DDA then it falls under the category of "Double Claim or Double Applicants against the same Jhuggi" but it does not fall under the category of "Double allotment against the same Jhuggi" for the second claimant till DDA had made allotment to the first claimant. Thus allotment in favour of one claimant is a pre-requisite for rejecting the claim of another claimant on the ground of "Double allotment against the same Jhuggi". Any other interpretation would result into injustice because it may even result in not making even one allotment against a particular Jhuggi because the claim of the first claimant is only considered without allowing his claim on merits whereas the claim of the second claimant is rejected on technical grounds of double allotment without considering his claim on merit and also ignoring the material facts that DDA had not made allotment in favour of the first claimant. Merely considering the claim of the first claimant without making allotment in his favour does not justifies the rejection of the second claimant on technical grounds of "Double allotment against the same Jhuggi".

20. Accordingly, practically there may be more than one claims against one specific Jhuggi but mandatorily there has to be only one allotment against that very Jhuggi because second or double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA. The "Double allotment against the same Jhuggi" connotes the situation when DDA has already made allotment in favour of one of the eligible applicants and accordingly the subsequent claim(s) by some other person(s)/claimant(s) against that very Jhuggi are debarred on the grounds of double allotment. Accordingly, there being more then one claims against the same Jhuggi ipso facto does not give rights to EDC to reject the other claims under "Double allotment against the same Jhuggi" until DDA had already decided to make allotment in favour of one of the applicants. Thus if there are two claims against one Jhuggi and DDA has not made allotment in favour of the first claimant then the claim of the second claimant cannot be rejected on the ground of double allotment simply because the Jhuggi was surveyed twice or the claim of the first claimant had already been considered but the EDC is duty bound to decide the eligibility of the other claimant on merits thereby taking into consideration as to whether DDA has made allotment in favour of one of the earlier applicant against that very Jhuggi or not. The result would have been different if on consideration of the eligibility, EDC had decided to make allotment in favour of the first claimant then the claim of the second claimant can be certainly rejected on the grounds of double allotment. But when no allotment

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is made by DDA in favour of the first claimant even after due consideration of his claim then the claim of second claimant cannot be rejected on the ground of "Double Allotment against the same Jhuggi" because in that eventuality the question of double allotment against the same Jhuggi does not arise since no allotment has been made against that Jhuggi and it falls under the category of "Double Claim or Double Applicants against the same Jhuggi" and not under the category of "Double allotment against the same Jhuggi". In view of the matter the terms "Consideration for Allotment" and "Allotment" are not synonymous but two different terms and they are part of the same process. The EDC has to determine the eligibility of the dwellers as per the criteria fixed by the policy guidelines issued by DDA. The claims of all the applicants are required to be considered for allotment and the process is culminated in making allotment or declining to make allotment. When after consideration of the claim EDC decides to make allotment in favour of one of the applicants then the claim(s) of the remaining applicant(s) deserves to be rejected on the ground of double allotment because double allotment is not permissible against the same Jhuggi as per the policy guidelines issued by DDA. However, after consideration of the claim of one of the applicant the EDC decides not to make allotment in his favour then in that eventuality the claim of the other applicants cannot be rejected on the grounds of double allotment because there is in fact no allotment made by DDA in favour of the earlier claimant as his claim was only considered but it had not culminated in making allotment in his favour. In view of the matter the claim of the other applicant/claimant deserves to be decided on their individual merits as per the policy guidelines issued by DDA and his claim cannot be rejected on the ground of "Double allotment against the same Jhuggi".

21. In the light of our discussion above, we shall appraise the material placed on file to determine whether it is a case of "Double allotment against the same Jhuggi" or only falls under the category of "Double Claim or Double Applicants against the same Jhuggi".

22. It is pertinent to point out that the Appellant/Claimant has categorically stated that Jhuggi No. 03, Golden Park, Ram Pura, Delhi is a single storey structure and it comprises of two interconnected rooms and furthermore, in order to reach the rear room, one has to pass through the front room. Thus the statement of the Appellant/Claimant shows that the interconnected rooms on the ground floor of the Jhuggi No. 03, Golden Park, Ram Pura, Delhi are not separate and independent dwelling units because the in order to reach the rear room,

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one has to pass through the front room as both the rooms are not having separate independent access from the gali. However, in order to reach the rear room, one has to pass through the front room. Accordingly, the interconnected rooms bearing Jhuggi No. 03 are not separate & independent dwelling units but they constitute one dwelling unit belonging to Ajay, who is the brother of the present Appellant/Claimant, for all purposes.

23. DDA has furnished the survey records along with three video clips of Jhuggi No. 03, 04 & 70. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 28.11.2024 wherein the Appellant/Claimant has stated that the first video clip pertains to the Jhuggi No. 03 of Saljeet & Ajay in which Saljeet (Appellant/Claimant) along with his wife Sanjana is seen and further Jhuggi No. 03 is clearly seen to be single storey structure having roof made with *"Bali & Wooden Planks"* and two interconnected rooms are seen and further Saljeet is heard stating that there are two interconnected rooms and further there are two surveys of Saljeet & his brother Ajay and furthermore, Saljeet is seen holding a slate in his hand on which **"03 SALJEET & AJAY (P) G.F"** is seen to have been written. The second video clip pertains to Jhuggi No. 04 of Ashik in which the Jhuggi No. 04 is clearly seen to be a single storey structure having roof made with *"Bali & Wooden Planks"* and in this video Ashik along with his wife Sheetal is seen and further Ashik is seen holding a slate in his hand on which **"T-4 ASHIK (P) G.F"** is seen to have been written. The third video clip pertains to the Jhuggi No. 70 in which his mother Santo with her husband Shyam Lal and grandson Uday S/o Baljeet, is seen and further Jhuggi No. 70 is clearly seen to be a kuchcha chappar placed outside the pucca room and further Santo is seen holding a slate in her hand on which **"70/T-3 SANTO & BALJIT (P) G.F"** is seen to have been written.

24. The statement of the Appellant/Claimant is a clincher piece of evidence because he has specifically stated that Jhuggi No. 03 is a single storey structure and it comprises of two interconnected rooms and further in order to reach the rear room, one has to pass through the front room. Accordingly, the interconnected rooms bearing Jhuggi No. 03 are not separate & independent dwelling units but they constitute one dwelling unit belonging to Ajay, who is the brother of the present Appellant/Claimant, for all purposes. It is also pointed out that in the first video clip, which pertains to the Jhuggi No. 03, Saljeet along with his wife Sanjana is seen and further Jhuggi No. 03 is clearly seen to be single storey structure having roof made with *"Bali & Wooden Planks"* and two interconnected rooms are seen and further Saljeet is

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heard stating that there are two interconnected rooms and further there are two surveys of Saljeet & his brother Ajay and furthermore, Saljeet is seen holding a slate in his hand on which **"03 SALJEET & AJAY (P) G.F"** is seen to have been written and this shows that single survey was conducted by the Appellant/Claimant Saljeet as well as his brother Ajay and that is why **"03 SALJEET & AJAY (P) G."** is seen to have been written on the slate, thereby, showing that the Appellant/Claimant as well as his brother Ajay were living jointly because the interconnected rooms constitute single dwelling unit. Moreover, the Appellant/Claimant has admitted that his brother Ajay has also sought allotment from DDA and since the interconnected rooms are part & parcel of the same dwelling unit, therefore, the Appellant/Claimant is not entitled to claim allotment against the said Jhuggi No. 3 because he was living jointly with his brother Ajay and further double allotment is not permissible as per the policy guidelines issued by DDA.

25. Furthermore, as pointed out above, it has been found that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently in the interconnected rooms but he was living jointly with the family of his brother Ajay in the interconnected rooms of Jhuggi No. 03 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further the interconnected rooms of the single storey Jhuggi No. 03, Golden Park, Ram Pura, Delhi have been found to be part & parcel of the same dwelling unit and further his brother Ajay has also sought allotment from DDA and since the interconnected rooms are part & parcel of the same dwelling unit, therefore, the Appellant/Claimant is not entitled to claim allotment against the said Jhuggi No. 3 because he was living jointly with his brother Ajay and further double allotment is not permissible as per the policy guidelines issued by DDA.

26. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the kuchcha

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chappar placed outside the pucca room of Jhuggi No. 03, Golden Park, Ram Pura, Delhi as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **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."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

30. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before

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01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

34. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

39. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the

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address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

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

41. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

44. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development**

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

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

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

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

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

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

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

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

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

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

51. It is pointed out that we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently in the interconnected rooms but he was living jointly with the family of his brother Ajay in the interconnected rooms of Jhuggi No. 03 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further the interconnected rooms of the single storey Jhuggi No. 03, Golden Park, Ram Pura, Delhi have been found to be

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part & parcel of the same dwelling unit and further his brother Ajay has also sought allotment from DDA and since the interconnected rooms are part & parcel of the same dwelling unit, therefore, the Appellant/Claimant is not entitled to claim allotment against the said Jhuggi No. 3 because he was living jointly with his brother Ajay and further double allotment is not permissible as per the policy guidelines issued by DDA. But despite that the Appellant/Claimant has claimed alternative allotment from DDA against the interconnected rooms of the single storey Jhuggi No. 03, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

52. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the interconnected rooms of the single storey Jhuggi No. 03, Golden Park, Ram Pura, Delhi as per the policy guidelines issued by DDA.

53. The Appellant/Claimant has tendered his Voter ID Card No. URU 2246423 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

54. It is pointed out that the Voter ID Card No. URU 2246423 (Annexure-A) of the Appellant/Claimant has been issued on 15.03.2021, much after to the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of the years from 2012 to 2015 does not arise and furthermore, this Voter ID Card has been issued on the address of Jhuggi No. 70 whereas the Appellant/Claimant has been claiming allotment from DDA against Jhuggi No. 03 and accordingly this document is not relevant. The Appellant/Claimant has tendered his Aadhar Card No. 2162 4498 4757 (Annexure-B) but the date of issuance is not mentioned in this document.

55. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also does not appear

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

56. The Appellant/Claimant has tendered Voter ID Card No. URU 2387892 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) and e-SHRAM Card (Annexure-G) of his wife Sanjana and the Electricity Bill (Annexure-H) in support of his claim.

57. It is pointed out that the Voter ID Card No. URU 2387892 (Annexure-D) of his wife Sanjana has been issued on 18.04.2024, much after the cutoff date 01.01.2015 and accordingly the question of her name appearing in the Voter List of the years from 2012 to 2015 does not arise. The Appellant/Claimant has tendered Aadhar Card No. 8618 1979 8348 (Annexure-E) of his wife Sanjana and it has been issued on 01.1.2021, much after the cutoff date 01.01.2015. Furthermore, the material placed on file shows that neither the Appellant/Claimant nor his wife Sanjana was having a valid Voter ID Card on the cutoff date 01.01.2015 on the address of Jhuggi No. 03 regarding which the Appellant/Claimant has been claiming allotment from DDA and further their names also do not appear in the Voter List of the years from 2012 to 2015. The e-SHRAM Card (Annexure-G) has been issued in favour of his wife Sanjana. The Electricity Bill (Annexure-H) shows that his wife had taken electricity connection on 14.08.2024, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, and further we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently in the interconnected rooms but he was living jointly with the family of his brother Ajay in the interconnected rooms of Jhuggi No. 03 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further the interconnected rooms of the single storey Jhuggi No. 03, Golden Park, Ram Pura, Delhi have been found to be part & parcel of the same dwelling unit and further his brother Ajay has also sought allotment from DDA and since the interconnected rooms are part & parcel of the same dwelling unit, therefore, the Appellant/Claimant is not entitled to claim

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allotment against the said Jhuggi No. 3 because he was living jointly with his brother Ajay and further double allotment is not permissible as per the policy guidelines issued by DDA.

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

59. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, and further we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently in the interconnected rooms but he was living jointly with the family of his brother Ajay in the interconnected rooms of Jhuggi No. 03 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further the interconnected rooms of the single storey Jhuggi No. 03, Golden Park, Ram Pura, Delhi have been found to be part & parcel of the same dwelling unit and further his brother Ajay has also sought allotment from DDA and since the interconnected rooms are part & parcel of the same dwelling unit, therefore, the Appellant/Claimant is not entitled to claim allotment against the said Jhuggi No. 3 because he was living jointly with his brother Ajay and further double allotment is not permissible as per the policy guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed

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

60. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material 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 Survey Number F01/IEL/ISR/PMAY/DDA/290 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

61. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. 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 GOLDEN PARK, RAMPURA, DELHI

Appeal No: 19-GP of 2024

Date of Institution: 04.11.2024

Date of Order: 27.02.2025

Present: Appellant/ Claimant Shyam Narayan S/o Moti Lal

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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. 28, Golden Park, Ram Pura, Delhi. A Public Notice by DDA was pasted in the Golden Park, Ram Pura, Delhi to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. 28 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative

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allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing No. F01/IEL/ISR/PMAY/DDA/320 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 19-GP of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 21.01.2025. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records the Jhuggi bearing No. 28 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 13.03.2024 whereby the reasons for rejection is mentioned to be **"Voter card not submitted by the applicant"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. 28 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Shyam Narayan has been recorded before us on 21.01.2025 wherein he has stated that he is married with Reena and having two sons; Anmol & Pradeep. Both the sons are unmarried.

9. The Appellant/Claimant has stated that previously he was living on rent in Wazirpur, Delhi along with his entire family. But in the year 2019, he had purchased the Jhuggi No. 28, Golden Park, Ram Pura from one Seva Ram for a sale consideration of Rs. 1,40,000/- and after purchasing the same, he along with his family had shifted to live in the said Jhuggi No. 28, Golden Park, Ram Pura. However, it is pointed out that the Appellant/Claimant has not disclosed the date and month of the purchase and furthermore, no documents relating to sale have been placed on file. But the fact remains that the Appellant/Claimant was not living on the cut off date in the Jhuggi No. 28, Golden Park, Ram Pura, regarding which he is claiming allotment from DDA because he had come to occupy the same in the year 2019 after it was purchased by him from one Seva Ram.

10. The Appellant/Claimant has stated that the Jhuggi No. 28 is a single storey structure and it comprises of one room and the roof is made with asbestos sheet. The Appellant/Claimant has sought alternative allotment from DDA against the said single storey Jhuggi No. 28, Golden Park where he has been living with his family since 2019 but his claim was rejected by Eligibility Determination Committee on the ground that he has failed to submit a Voter ID Card in support of his claim in spite of the fact that he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 19-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has tendered the survey records along with two video clips pertaining to the Jhuggi No. 28 and the same was played before the Appellant/Claimant when his statement was recorded before us on 21.01.2015 wherein he has stated that in the first video clip the Jhuggi No. 28 is clearly seen to be lying locked and a nameplate on the front wall of the said Jhuggi is seen on which "**SHYAM NARAYAN JH-28 GOLDEN PARK RAMPURA-DL-35**" is seen to have been written. In the second video clip, the Appellant/Claimant is seen and getting the survey conducted on the Jhuggi No. 28 and further, the said Jhuggi is clearly seen to be a single

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storey structure having roof made with balli & asbestos sheet and further, his room & kitchen are also seen and furthermore, the Appellant/Claimant is seen holding a slate in his hand on which **"28 SHYAM NARAYAN G.F"** is seen to have been written.

12. The admission of the Appellant/Claimant is a clincher piece of evidence because he has categorically stated that previously he along with his family was living on rent in Wazirpur, Delhi and in the year 2019 he had purchased the Jhuggi No. 28, Golden Park, Ram Pura, Delhi from one Seva Ram and whole family had shifted to live in the said Jhuggi. The Appellant/Claimant has not tendered any documents with regard to the sale and the father's name of the vendor and other details with regard to the date & month of sale etc. have also not been disclosed but the fact remains that the Appellant/Claimant was not living on the cutoff date of 01.01.2015 in the Jhuggi No. 28, regarding which he is claiming allotment from DDA because he had purchased the said Jhuggi in the year 2019 and had accordingly come to live in the said Jhuggi in the year 2019. However, the fact remains that on the cutoff date 01.01.2015, the Appellant/Claimant was not living in Jhuggi No. 28 regarding which he is claiming allotment from DDA because on the cutoff date of 01.01.2015 he along with his family was living on rent in Wazirpur, Delhi and further he had come to occupy the said Jhuggi No. 28 in the year 2019 and accordingly, the Appellant/Claimant is not eligible to claim allotment from DDA as per the policy guidelines issued by DDA.

13. Thus the vendor Seva Ram was living in the Jhuggi No. 28 on the cutoff date of 01.01.2015 but he has not sought alternative allotment from DDA against the said Jhuggi. However, the present Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. 28 inspite of the fact that he was admittedly not living in the Jhuggi No. 28 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2019, therefore, the Appellant/Claimant is not eligible to claim alternative allotment from DDA against the said double storey Jhuggi No. 28.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. 28 was in existence in the Golden Park, Ram Pura on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Seva Ram was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the

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said single storey Jhuggi No. 28 inspite of the fact that he was admittedly not living in the Jhuggi No. 28 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2019, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. 28 as per the policy guidelines issued by DDA.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. 28 as per the policy guidelines issued by DDA.

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

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

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

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

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate

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

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

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

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

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

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

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

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

40. It is pointed out that we have already held that the Jhuggi No. 28 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Seva Ram was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. 28 inspite of the fact that he was admittedly not living in the Jhuggi No. 28, Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2019, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. 28 as per the policy guidelines issued by DDA. But despite that the Appellant/ Claimant has sought allotment from DDA against the said Jhuggi No. 28. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. 28 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered his Voter ID Card No. URU 2415008 (Annexure-A) and Aadhar Card (Annexure-B) in support of his claim.

43. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing number URU

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2415008 and it has been issued on 16.08.2024, much after the cut off date of 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the year 2012 to 2015 does not arise. Further, his Aadhar Card (Annexure-B) is bearing No. 9859 2913 1345 and it has been issued on 10.01.2020, much after the cut off date of 01.01.2015. The Appellant/Claimant has categorically stated that previously he had got his documents and of his other family members issued on the address of Wazirpur, where they were previously living on rent and after purchasing the Jhuggi No. 28, Golden Park, Ram Pura in the year 2019, all the documents were got issued on the changed address of Golden Park, Ram Pura.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 28 Golden Park, Ram Pura, Delhi regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further we have already held that the Jhuggi No. 28 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Seva Ram was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. 28 inspite of the fact that he was admittedly not living in the Jhuggi No. 28 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2019, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. 28 as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered Voter ID Card (Annexure-C) & Aadhar Card (Annexure-D) of his wife Reena as well as the Electricity Bill (Annexure-E) & Passbook of Union Bank (Annexure-F) and Passbook of Bank of Baroda (Annexure-G) in support of his claim.

46. It is pointed out that the Voter ID Card No. URU 2414993 (Annexure-C) of his wife Reena has been issued on 16.08.2024, much after the cut off date of 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the year 2012 to 2015 does not arise. The Aadhar Card (Annexure-D) of his wife Reena is bearing No. 9659 4190 4559 and it has been issued on 10.01.2020, much after the cut off date of 01.01.2015. The material placed

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on file accordingly shows that neither the Appellant/Claimant nor his wife Reena was having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of the Jhuggi No. 28, Golden Park, regarding which the Appellant/Claimant is claiming alternative allotment from DDA and further, their names also do not appear in any of the Voter Lists and more particularly in the years from 2012 to 2015. Further, the Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken the electricity connection on 20.04.2022, much after the cut off date of 01.01.2015. The Passbook of Union Bank (Annexure-G) shows that the Appellant/Claimant has opened the account on 10.03.2023, much after the cut off date of 01.01.2015. The Passbook of Bank of Baroda (Annexure-H) shows that his wife Reena has opened the account on 19.01.2017, 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 valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 28 regarding which the Appellant/Claimant is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further we have already held that the Jhuggi No. 28 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Seva Ram was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. 28 inspite of the fact that he was admittedly not living in the Jhuggi No. 28 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2019, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. 28 as per the policy guidelines issued by DDA.

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

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

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. 28, Golden Park, Ram Pura, Delhi regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further we have already held that the Jhuggi No. 28was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Seva Ram was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. 28inspite of the fact that he was admittedly not living in the Jhuggi No. 28 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2019, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. 28 as per the policy guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of

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Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. F01/IEL/ISR/PMAY/DDA/320 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF SHALIMAR BAGH

Appeal No: 03-S of 2024

Date of Institution: 16.05.2024

Date of Order: 27.02.2025

Present: Appellant/ Claimant Mahesh Kumar (since deceased) S/o Ganga Ram through his legal heir, Seema (wife)

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 13.03.2024 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant Mahesh Kumar (since deceased) had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. N-54/63, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. N-54/63 was found to exist 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, Shalimar Bagh, duly communicated its order bearing Survey Number 216/1213 dated 13.03.2024 to the legal heir of the present Appellant/ Claimant, who has since died on 30.10.2013. Aggrieved by the same, the present Appeal No. 03-S of 2024 has been filed by his legal heir, Seema (wife).

3. In response to the notice, Seema (wife), legal heir of the present Appellant/ Claimant, Mahesh Kumar (since deceased) S/o Ganga Ram, has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam, Dy. Director.

4. The statement of Seema, who is the wife of the present Appellant/ Claimant, Mahesh Kumar (since deceased) S/o Ganga Ram has been recorded before us on 24.02.2025 and she has tendered documents, Annexure- A to Annexure- S, in support of the claim of the Appellant/ Claimant, Mahesh Kumar (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Seema (wife), legal heir of the present Appellant/ Claimant, Mahesh Kumar (since deceased) as well as Sh. Radhe Shyam, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records the Jhuggi bearing No. N-54/63 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant Mahesh Kumar (since deceased), which was communicated to his legal heir by the Nodal Officer vide Rejection Order dated 13.03.2024 whereby the reasons for rejection is mentioned to be **"1. Voter Card Not *Verified. 2. S.R. No. 126 ZFK 1443209 Seema W/o Mahesh Kumar PS* = 145"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

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whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. N-54/63 as per the policy guidelines issued by DDA.

8. The Appellant/Claimant Appellant/Claimant Mahesh Kumar (since deceased) S/o Ganga Ram has sought allotment from DDA against the Jhuggi No. N-54/63, Shalimar Bagh, but his claim has been rejected by Eligibility Determination Committee and the Rejection Order was conveyed to his wife Seema being his legal heir because Mahesh Kumar had died on 30.10.2013 and his Death Certificate is Annexure-J and accordingly, aggrieved by the same, the present Appeal No. 03-S of 2024 has been filed by his wife Seema in the capacity of the legal heir of Mahesh Kumar (since deceased). Accordingly, the statement of Seema, who is wife of the Appellant/Claimant Mahesh Kumar (since deceased) has been recorded before us on 24.02.2025 wherein she has stated that she was married with Appellant/Claimant Mahesh Kumar (since deceased) and having two children; Rahul and Sumitra. Mahesh Kumar had expired on 30.10.2013 and his Death Certificate is Annexure-J. Rahul is unmarried. Sumitra is married with Virender and she is living in her matrimonial home in Kanpur, Uttar Pradesh.

9. Seema, who is the wife of the Appellant/Claimant Mahesh Kumar (since deceased) has stated that her family is having a double storey Jhuggi No. N-54/63, Shalimar Bagh and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. Seema, who is the wife of the Appellant/Claimant Mahesh Kumar (since deceased) has also stated that she along with her husband Mahesh Kumar (until his death on 30.10.2013) and son Rahul has been living in the said single storey Jhuggi No. N-54/63 and regarding that her husband Mahesh Kumar (since deceased) had sought allotment from DDA against the said double storey Jhuggi No. N-54/63 but the claim of the Appellant/Claimant Mahesh Kumar (since deceased) has been rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified in spite of the fact that the Appellant/Claimant was having all the requisite documents as per policy guidelines issued by DDA and the Rejection Order was conveyed to his wife Seema being his legal heir because Mahesh Kumar had allegedly died on 30.10.2013 and his Death Certificate is Annexure-J and accordingly, aggrieved by the same, the present Appeal No. 03-S of 2024 has been filed by his wife Seema

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in the capacity of legal heir of Mahesh Kumar (since deceased). Seema has also tendered documents, Annexure-A to Annexure-S, in support of claim of her husband Mahesh Kumar (since deceased) and prayed that DDA be directed to make allotment in her favour being legal heir of her husband Mahesh Kumar (since deceased).

11. It is pointed out that DDA has conducted survey in Shalimar Bagh but the videography was not conducted and accordingly, no video clip is available.

12. There is nothing to disbelieve the statement of Seema, who is the wife of the Appellant/Claimant Mahesh Kumar (since deceased), on the material aspect of the case, which has been corroborated by the survey records, about the existence of the double storey Jhuggi No. N-54/63. Thus the statement of Seema as well as the survey records has duly proved that the double storey Jhuggi No. N-54/63 was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant Mahesh Kumar (since deceased) & his family is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. N-54/63 was in existence in the Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant Mahesh Kumar (since deceased) until his death on 30.10.2013 along with his family was & is still using the same for residential purposes and further the Appellant/Claimant Mahesh Kumar (since deceased) has claimed alternative allotment from DDA against the said double storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant Mahesh Kumar (since deceased) was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. N-54/63 as per the policy guidelines issued by DDA.

15. Seema, who is the wife of the Appellant/Claimant Mahesh Kumar (since deceased) has stated that the claim of the Appellant/ Claimant, Mahesh Kumar (since deceased) has been

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wrongly rejected by DDA and she has tendered documents, Annexure- A to Annexure- S, in support of the claim of the Appellant/ Claimant, Mahesh Kumar (since deceased) and prayed that DDA be directed to make allotment in her favour being legal heir of her husband Mahesh Kumar (since deceased).

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing Survey Number 216/1213 dated 13.03.2024.

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.

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

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

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

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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."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

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FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

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

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

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

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

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have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

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

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

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

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

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

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

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

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

40. It is pointed out that we have already held that the double storey Jhuggi No. N-54/63 was in existence in Shalimar Bagh on the cutoff date of 01.01.2015 and the Appellant/Claimant Mahesh Kumar (since deceased) until his death on 30.10.2013 along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant Mahesh Kumar (since deceased) as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. N-54/63 Shalimar Bagh as per the policy guidelines issued by DDA.

42. Seema, who is the wife of the Appellant/ Claimant Mahesh Kumar (since deceased), has tendered the Voter ID Card No. ZFK 1443191 (Annexure-A) of the Appellant/Claimant Mahesh Kumar, her Voter ID Card bearing No. ZFK 1443209 (Annexure-B) and the Letter No. VC/AERO/AC-14/Misc./2025/1077 dated 21.02.2025 (Annexure-K) issued by AERO, AC-14, Shalimar Bagh in support of the claim of the Appellant/ Claimant Mahesh Kumar (since deceased).

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43. It is pointed out that Seema, who is the wife of the Appellant/ Claimant Mahesh Kumar (since deceased), has categorically stated that both the Voter ID Cards i.e. ZFK 1443191 (Annexure-A) of the Appellant/Claimant Mahesh Kumar (since deceased) & ZFK 1443209 (Annexure-B) of Seema are forged documents because she had got the same prepared by making payment to some agents and that is why both the Voter ID Cards (Annexure-A & Annexure-B) have not been reflected in any of the Voter Lists. This fact is also corroborated by the Letter No. VC/AERO/AC-14/Misc./2025/1077 dated 21.02.2025 (Annexure-K) issued by AERO, AC-14, Shalimar Bagh wherein it is mentioned that no records pertaining to the Voter ID Card No. ZFK 1443191 (Annexure-A) of Mahesh Kumar is available with the Election Commission and furthermore, the Voter ID Card No. ZFK 1443209 of his wife Seema has also not been reflected in any of the Voter Lists up to 2015.

44. The admission of Seema, who is the wife of the Appellant/ Claimant Mahesh Kumar (since deceased), is a clincher piece of evidence and it shows that the Voter ID Card No. ZFK 1443191 (Annexure-A) of the Appellant/Claimant Mahesh Kumar (since deceased) is a forged & fabricated document and accordingly, the question of his name appearing in any Voter List of the year 2012 to 2015 does not arise. This shows that Seema as well her husband Mahesh Kumar (since deceased) had conspired to cheat & defraud DDA by using forged & fabricated documents in order to get allotment from DDA by hook or crook.

45. Therefore, we have no hesitation in holding that the Voter ID Card No. ZFK 1443191 (Annexure-A) of the Appellant/Claimant Mahesh Kumar (since deceased) is a forged & fabricated document and further that Seema as well her husband Mahesh Kumar (since deceased) had conspired to cheat & defraud DDA by using forged & fabricated documents in order to get allotment from DDA by hook or crook and accordingly, the Appellant/Claimant Mahesh Kumar (since deceased) was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-54/63 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant Mahesh Kumar (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. In addition to the abovementioned documents, Seema has also tendered her two Voter ID Cards (Annexure-B & Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E), e-

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Shram Card (Annexure-F) as well as the Indane Gas Connection record (Annexure-G), Electricity Bill (Annexure-H), Ration Card (Annexure-I), the Letter No. VC/AERO/AC-14/Misc./2025/1077 dated 21.02.2025 (Annexure-K) issued by AERO, AC-14, Shalimar Bagh Voter List of the year 2016 (Annexure-L), Voter List of the year 2017 (Annexure-M), Voter List of the year 2018 (Annexure-N), Voter List of the year 2019 (Annexure-O), Voter List of the year 2021 (Annexure-P), Voter List of the year 2022 (Annexure-Q), Voter List of the year 2023 (Annexure-R) and Voter List of the year 2025 (Annexure-S).

47. It is pointed out that Seema has tendered her two Voter ID Cards (Annexure-B & Annexure-C) and both the Voter ID Cards are bearing the same number i.e. ZFK 1443209 and the first Voter ID Card (Annexure-B) of Seema has been allegedly issued on 09.10.2009 and the second Voter ID Card (Annexure-C) has been issued on 19.04.2015.

48. It is pointed out that Seema has specifically admitted that her first Voter ID Card No. ZFK 1443209 issued on 09.10.2009 is a forged & fabricated document because she has got it prepared by making payment to some agent. This shows that Seema was having a valid Voter ID Card No. ZFK 1443209 issued on 19.04.2015 (Annexure-C) and in order to create evidence, Seema in collusion with her husband Mahesh Kumar (since deceased), had got the Voter ID Card No. ZFK 1443209 dated 09.10.2009 (Annexure-B) prepared thereby changing the date of issuance from 19.04.2015 to 09.10.2009 so that she can create evidence to show that she was having a valid Voter ID Card issued prior to the cutoff date of 01.01.2015 but the fact remains that the Voter ID Card No. ZFK 1443209 dated 09.10.2009 (Annexure-B) tendered by Seema is a forged & fabricated document. As per our discussion above, we have already held that the Voter ID Card No. ZFK 1443191 (Annexure-A) of the Appellant/Claimant Mahesh Kumar (since deceased) is a forged & fabricated document and in addition to that the Voter ID Card No. ZFK 1443209 (Annexure-B) issued on 09.10.2009 of Seema, who is the wife of the Appellant/ Claimant Mahesh Kumar (since deceased), has also been found to be forged & fabricated document and this shows that Seema as well her husband Mahesh Kumar (since deceased) had conspired to cheat & defraud DDA by using forged & fabricated documents in order to get allotment from DDA by hook or crook.

49. It is pointed out that the Aadhar Card (Annexure-D) of Seema is bearing No. 2561 9505 5652 and it has been issued on 25.11.2020, much after the cutoff date of 01.01.2015. The e-SHRAM Card (Annexure-F) of Seema does not bear the date of issuance of this document.

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The Indane Gas Connection Record (Annexure-G) shows that Seema had taken the connection on 02.04.2010. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by Seema on 30.10.2009. Further, the Ration Card No. 077004005784 (Annexure-I) has been issued in favour of Seema on 07.06.2014 and the name the Appellant/Claimant Mahesh Kumar (since deceased) and Rahul have been recorded.

50. Now we come to the validity of the second Voter ID Card No. ZFK 1443209 dated 19.04.2015 (Annexure-C) of Seema, who is the wife of the Appellant/ Claimant Mahesh Kumar (since deceased). There is no doubt that the second Voter ID Card No. ZFK 1443209 dated 19.04.2015 (Annexure-C) of Seema is a valid document, but it has been issued much after the cutoff date of 01.01.2015. Further, in the Letter No. VC/AERO/AC-14/Misc./2025/1077 dated 21.02.2025 issued by AERO, AC-14, Shalimar Bagh (Annexure-K) it is mentioned that this Voter ID Card issued on 19.04.2015 is a valid document because it has been reflected in the Voter Lists of 2016 to 2025. Furthermore, the name of Seema appears at at Sl. No. 120 in the Voter List of the year 2016 (Annexure-L), at Sl. No. 123 in the Voter List of the year 2017 (Annexure-M), at Sl. No. 129 in the Voter List of the year 2018 (Annexure-N), at Sl. No. 124 in the Voter List of the year 2019 (Annexure-O), at Sl. No. 141 in the Voter List of the year 2021 (Annexure-P), at Sl. No. 122 in the Voter List of the year 2022 (Annexure-Q), at Sl. No. 126 in the Voter List of the year 2023 (Annexure-R) & at Sl. No. 122 in the Voter List of the year 2024 (Annexure-S). However, all these documents pertains to the post cutoff date of 01.01.2015 and accordingly are not relevant. 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 neither the Appellant/Claimant Mahesh Kumar (since deceased) nor his wife Seema was having a valid Voter ID Card issued on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-54/63, Shalimar Bagh, regarding which the Appellant/Claimant Mahesh Kumar (since deceased) is claiming alternative allotment from DDA and further, their names also do not appear in any of the Voter Lists and more particularly in the years from 2012 to 2015 and furthermore, the fact also cannot be lost sight that as per our discussion above, we have already held that the Voter ID Card No. ZFK 1443191 (Annexure-A) of the Appellant/Claimant Mahesh Kumar (since deceased) and the Voter ID Card No. ZFK 1443209 (Annexure-B) issued on 09.10.2009 of his wife Seema have

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been found to be forged & fabricated documents and this shows that Seema as well her husband Mahesh Kumar (since deceased) had conspired to cheat & defraud DDA by using forged & fabricated documents in order to get allotment from DDA by hook or crook, therefore, the Appellant/Claimant Mahesh Kumar (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above neither the Appellant/Claimant Mahesh Kumar (since deceased) nor his wife Seema was having a valid Voter ID Card issued on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-54/63, Shalimar Bagh, regarding which the Appellant/Claimant Mahesh Kumar (since deceased) is claiming alternative allotment from DDA and further, their names also do not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and furthermore, the fact also cannot be lost sight that as per our discussion above, we have already held that the Voter ID Card No. ZFK 1443191 (Annexure-A) of the Appellant/Claimant Mahesh Kumar (since deceased) and the Voter ID Card No. ZFK 1443209 (Annexure-B) issued on 09.10.2009 of his wife Seema have been found to be forged & fabricated documents and this shows that Seema as well her husband Mahesh Kumar (since deceased) had conspired to cheat & defraud DDA by using forged & fabricated documents in order to get allotment from DDA by hook or crook, therefore, the Appellant/Claimant Mahesh Kumar (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made

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misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant Mahesh Kumar (since deceased) with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-S furnished by Seema, who is the wife of the Appellant/ Claimant, do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant Mahesh Kumar (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

53. The Appellant/ Claimant Mahesh Kumar (since deceased) has made misrepresentation and also futile attempt to suppress material 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 "Survey Number 216/1213" dated 13.03.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF GOLDEN PARK, RAM PURA, DELHI

Appeal No: 23-GP/2024

Date of Institution: 04.11.2024

Date of Order: 28.02.2025

Present: Appellant/ Claimant Kabir S/o Malakawa

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

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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-7, Golden Park, Ram Pura, DELHI. A Public Notice by DDA was pasted in the Golden Park to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA from at DDA site office at Golden Park, Ram Pura, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-7 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Golden Park, duly communicated its order bearing No. F01/IEL/ISR/PMAY/DDA/251 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 23-GP/2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 26.11.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-7 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"(i). Ration Card not submitted/Upper Floor. (ii). Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a 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 the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the Jhuggi No. A-7 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Kabir has been recorded before us on 26.11.2024 wherein he has stated that his parents, Malakawa & Tara, are having six sons, Samir, Kabir, Bablu, Aman, Akash & Virat and one daughter Tulsi. Out of whom Bablu, Aman, Akash & Virat are unmarried. Tulsi is married with Sanjay and she is living in her matrimonial home in Ramesh Park, Delhi. Samir is married with Kiran and having two children. Kabir (Appellant/Claimant) is married with Madhu and having one son Piyush.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-7, Golden Park, Ram Pura, Delhi and it comprises of two interconnected rooms on the ground floor and one room on the first floor and a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor.

Ground floor of Jhuggi No. A-7

10. The Appellant/Claimant has stated that his parents, Malakawa & Tara along with the family of their son Samir as well as all the four unmarried sons Bablu, Aman, Akash & Virat, are living in the two interconnected rooms on the ground floor and regarding that DDA has made allotment in favour of his mother Tara. These facts are not disputed by DDA.

First floor of Jhuggi No. A-7

11. The Appellant/Claimant has stated that he along with his wife Madhu and son Piyush is living on the first floor of the said Jhuggi No. A-07. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-07 but his claim has been rejected by the Eligibility Determination Committee on the ground that his Voter ID Card could not be verified further he has failed to submit separate Ration Card in spite of the fact that he had admittedly sought allotment from DDA against the first floor of the said Jhuggi No. A-07 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same he has filed the present Appeal No. 23-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey records along with two video clips of Jhuggi No. A-07. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 26.11.2024 wherein the Appellant/Claimant has stated the first video clip

pertains to the Jhuggi No. A-07 in which his mother Tara is seen and getting the survey conducted and further two interconnected rooms on the ground floor is seen and the room/kitchen are also seen and further his mother Tara is seen holding a slate in her hand on which **"7-A TARA G.F"** is seen to have been written. The second video clip pertains to the first floor of the said Jhuggi No. A-07 in which the Appellant/Claimant is seen and getting the survey conducted and further one room having roof made with asbestos sheet is seen and further his room & kitchen are seen and a pucca staircase going from ground to the upper floor is also seen and further the Appellant/Claimant is seen holding a slate in his hand on which **"7-A KABIR F.F"** is seen to have been written.

13. Here it is also pointed out that the Appellant/Claimant has categorically stated that his date of birth is 08.01.2001 and that has been correctly recorded in his PAN Card (Annexure-C) whereas in the Aadhar Card (Annexure-B) the year of birth is recorded to be 2001 and in the Voter ID Card (Annexure-A) it has been wrongly recorded to be 01.01.2001 instead of 08.01.2001. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that his date of birth is 08.01.2001 and accordingly, he was minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-7 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 against the first floor of the said double storey Jhuggi No. A-7 in his favour.

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16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Accordingly, there is no illegality in the impugned rejection order bearing No. F01/IEL/ISR/PMAY/DDA/251 dated 11.09.2024.

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.

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

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to

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distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and

reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16

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were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar, Delhi, with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar, Delhi, thereby holding that for claiming alternative allotment against the

ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

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39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the admission of the Appellant/Claimant is a clincher piece of evidence and it shows that his date of birth is 08.01.2001 and accordingly, he was minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. But despite that the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-7 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered his Voter ID Card No. URU2261535 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

43. It is pointed out that the Voter ID Card No. URU 2261535 (Annexure-A) of the Appellant/Claimant has been issued on 13.12.2021, much after the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of the years from 2012 to 2015 does not arise. The Appellant/Claimant has tendered his Aadhar Card No. 3129 1740 6828 (Annexure-B) and it has been issued on 11.05.2023, much after the cutoff date 01.01.2015. The Appellant/Claimant has stated that his date of birther is 08.01.2001 and it is correctly reflected in PAN Card (Annexure-C) and further in Aadhar Card (Annexure-B), the year of birth is correctly mentioned to be 2001 but in his Voter ID Card No. URU2261535

(Annexure-A) his date of birth is recorded to be 01.01.2001 instead of 08.01.2001. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the date of birth is 08.01.2001 and accordingly, he was minor on the cutoff date of 01.01.2015 and accordingly, the question of his having a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. 62 regarding which he has been claiming allotment from DDA and further his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and furthermore, we have already held that the Appellant/Claimant has been found to be minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. It is also pointed out that the Appellant/Claimant has categorically admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the First Floor of the Jhuggi No. A-7, Golden Park, Ram Pura, Delhi, regarding which he is claiming alternative allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. A-7, 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.

46. The Appellant/Claimant has tendered Voter ID Card No. URU 2355352 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Madhu, the Passbook of Bank of Baroda (Annexure-G) and the Electricity Bill (Annexure-H) in support of his claim.

47. It is pointed out that the Voter ID Card No. URU2355352 (Annexure-D) of his wife Madhu has been issued on 16.02.2024, much after the cutoff date 01.01.2015 and accordingly, the question of her name appearing in the Voter List of the years from 2012 to 2015 does not arise. The Appellant/Claimant has tendered Aadhar Card No. 6511 8343 3909 (Annexure-E) of his wife Madhu and it has been issued on 04.03.2021, much after the cutoff date

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01.01.2015. This shows that neither the Appellant/Claimant nor his wife Madhu was having a valid Voter ID Card on the cutoff date 01.01.2015 and further their names also do not appear in the Voter List of the years from 2012 to 2015. The Passbook of Bank of Baroda (Annexure-G) shows that his wife Madhu had opened the account on 09.02.2024, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-H) shows that the electricity connection had been taken by his mother Tara on the ground floor of Jhuggi No. A-07 regarding DDA has already made allotment in favour of his mother Tara and accordingly this document is not relevant to determine the eligibility of the Appellant/Claimant. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-7 regarding which he has been claiming allotment from DDA and further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and moreover the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015, and furthermore, we have already held that the Appellant/Claimant has been found to be minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

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49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-07, Golden Park, Delhi regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor and furthermore the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-07 regarding which he has been claiming allotment from DDA and further his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and moreover the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015, and furthermore the Appellant/Claimant has been found to be minor on the cutoff date of 01.01.2015 and accordingly, the question of his having requisite documents, including a valid Voter ID Card on the cutoff date of 01.01.2015 does not arise, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No.

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F01/IEL/ISR/PMAY/DDA/251 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(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 GOLDEN PARK, RAM PURA, DELHI

Appeal No: 32-GP/2024

Date of Institution: 04.11.2024

Date of Order: 28.02.2025

Present: Appellant/ Claimant Rahul S/o Ram Karan

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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-45, Golden Park, Ram Pura, Delhi. A Public Notice by DDA was pasted in the Golden Park, Ram Pura to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park, Ram Pura, Delhi. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. A-45 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for

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alternative allotment and the Nodal Officer, Golden Park, Ram Pura, Delhi, duly communicated its order bearing Survey Number F01/IEL/ISR/PMAY/DDA/235 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 32-GP/2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.11.2024 The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records the Jhuggi bearing No. A-45 was found to exist exist on the first floor but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"Ration Card not submitted/Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the Jhuggi No. A-45 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Rahul has been recorded before us on 27.11.2024

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wherein he has stated that his parents; Ram Karan & Poonam, are having two sons; Rahul & Abhishek and two daughters; Rina & Kiran. Ram Karan had expired on 31.05.2009 and his Death Certificate is Annexure-J. All the children are married. Rina is married with Kavi and she is living in her matrimonial home in Tilak Nagar, Delhi. Kiran is married with Ravi and she is living in her matrimonial home in Badli, Delhi. Abhishek is married with Tanu and having two children. Rahul (Appellant/Claimant) is married with Neha and having three children; Akhshat, Granth & Vedic.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. A-45, Golden Park, Ram Pura, Delhi and it comprise of a kitchen & one room on the ground floor and one room on the first floor and further a pucca staircase is constructed inside the room on the ground floor and it is used for going to the upper floor and accordingly, both the floors are the part & parcel of the same dwelling unit. The Appellant/Claimant has also stated that his mother Poonam along with the family of her son Abhishek is living on the ground floor of the Jhuggi No. A-45 whereas the Appellant/Claimant along with his wife Neha and all the three children; Akhshat, Granth & Vedic is living on the first floor of the said double storey Jhuggi No. A-45.

10. Thus the statement of the Appellant/Claimant shows that the first floor of the Jhuggi No. A-45, Golden Park, Ram Pura, Delhi 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. Accordingly, the ground & first floors of Jhuggi No. A-45 are not separate & independent dwelling units but they constitute one dwelling unit belonging to his mother Poonam bearing Jhuggi No. A-45 for all purposes.

Allotment made by DDA in favour of Poonam (mother of the Appellant/Claimant)

11. The Appellant/Claimant has stated that his mother Poonam along with the family of her son Abhishek is living on the ground floor of the Jhuggi No. A-45 and regarding that DDA has made alternative allotment in favour of his mother Poonam.

Claim made by the Appellant/Claimant

12. The Appellant/Claimant has stated that he along with his wife Neha and all the three children; Akhshat, Granth & Vedic is living on the first floor of the Jhuggi No. A-45 and

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regarding that the Appellant/Claimant has sought alternative allotment from DDA but his claim was rejected by Eligibility Determination Committee on the ground that he was not having a separate Ration Card despite the fact that he has claimed alternative allotment against the first floor in spite of the fact that he has admittedly sought alternative allotment against the first floor of the Jhuggi No. A-45 and further he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 32-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has tendered the survey records along with two video clip pertaining to the Jhuggi No. A-45 and the same were played before the Appellant/Claimant when his statement was recorded before us on 27.11.2024 wherein he has stated that the first video clip pertains to the ground floor of the Jhuggi No. A-45 and from outside, the said Jhuggi is clearly seen to be a double storey structure and further, his mother Poonam is seen on the ground floor and a kitchen & room as well as a pucca staircase constructed inside the room the ground floor and going to the upper floor is also seen and furthermore, his mother Poonam is also seen holding a slate in her hand on which **"45-A POONAM DEVI G+1"** is seen to have been written. In the second video clip, a pucca staircase from inside the room on the ground floor and going to the upper floor is seen and furthermore, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen on the first floor are seen and furthermore, he is seen holding a slate in his hand on which **"45-A RAHUL FF"** is seen to have been written.

14. It is pointed out that the video clips prepared by the survey team of DDA also corroborates the statement of the Appellant/Claimant to the effect that the Jhuggi No. A-45 is clearly seen to be a double storey structure and it comprise of a kitchen & one room on the ground floor and one room on the first floor and further the first floor is not having access from the street but it is having access from the pucca staircase, which has been constructed inside the room the ground floor and it is used for going to the upper floor. Thus both the floors of the double storey Jhuggi No. A-45 are part & parcel of the same dwelling unit. Furthermore, DDA has made allotment in favour of his mother Poonam against the said double storey Jhuggi No. A-45 which is a single dwelling unit and accordingly, the Appellant/Claimant is not entitled

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to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA.

15. The admission of the Appellant/Claimant is a clincher piece of evidence wherein he has stated that his family is having a double storey Jhuggi No. A-45, Golden Park, Ram Pura, Delhi and it comprise of a kitchen and a room on the ground floor and one room on the first floor and further a pucca staircase is constructed inside the room on the ground floor and it is used for going to the upper floor and accordingly, both the floors are the part of the same dwelling unit. It is pertinent to point out that the Appellant/Claimant has also tendered two Ration Cards (Annexure-K & Annexure-L). The first Ration Card is bearing No. 375067 (Annexure-K) and it has been issued in favour of his father Ram Karan on 23.12.1996 and in this Ration Card, the name of the Appellant/Claimant and other family members is also mentioned. The second Ration Card is bearing No. APL 65140787 and it has also been issued in favour of his father Ram Karan on 13.05.2005 and the name of the Appellant/Claimant is also mentioned therein along with other family members. It accordingly shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. A-45 but he was living jointly with his parents in the Jhuggi No. A-45. But the Appellant/Claimant has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook. Therefore, the Appellant/Claimant is not eligible to claim alternative allotment as per the policy guidelines issued by DDA.

16. Furthermore, as pointed out above, it has been found that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. A-45 but he was living jointly with his parents in the Jhuggi No. A-45 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further both the floors of the double storey Jhuggi No. A-45, Golden Park, Ram Pura, Delhi havd been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of his mother Poonam against the said double storey Jhuggi No. A-45, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA.

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17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the double storey Jhuggi No. A-45, Golden Park, Ram Pura, Delhi as per the policy guidelines issued by DDA.

18. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut-off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing Survey Number F01/IEL/ISR/PMAY/DDA/235 dated 11.09.2024.

20. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

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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."

21. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

22. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the

year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

24. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

25. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

26. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

27. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment

against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

28. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

29. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development**

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Authority" in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

30. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

31. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

32. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons.

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The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

33. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

34. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed

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and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

35. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar, Delhi, with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

36. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

37. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers

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of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

38. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar, Delhi, thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

39. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

41. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

42. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

43. It is pointed out that we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. A-45 but he was living jointly with his parents in the Jhuggi No. A-45 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further both the floors of the double storey Jhuggi No. A-45, Golden Park, Ram Pura, Delhi has been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of his mother Poonam against the said double storey Jhuggi No. A-45, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA. But despite that the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi No. A-45, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before

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01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-45, Golden Park, Ram Pura, Delhi, as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

46. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing number URU 1444651 and it has been issued on 16.02.2012, much prior to the cut off date of 01.01.2015. Further, his Aadhar Card (Annexure-B) is bearing No. 2606 4458 3220 but the date of issuance is not mentioned therein. Furthermore, it is pointed out that the Appellant/Claimant has not tendered any Voter List to show that he has used his Voter ID Card to cast vote in any of the elections after issuance of the same on 16.02.2012 and more particularly in the years from 2012 to 2015.

47. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-45, Golden Park, Ram Pura, Delhi, regarding which he is claiming allotment from DDA but his name does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The Appellant/Claimant has specifically stated that he is not having a separate Ration Card issued in his name on the address of the first floor of the Jhuggi No. A-45, regarding which he is claiming alternative allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-K & Annexure-L). The first Ration Card is bearing No. 375067 (Annexure-K) and it has been issued in favour of his father Ram Karan (since deceased) on 23.12.1996 and in this Ration Card, the names of the Appellant/Claimant and other siblings are also mentioned. The second Ration Card is bearing No. APL 65140787 and it has also been issued in favour of his father Ram Karan (since deceased) on 13.05.2005 and the name of the Appellant/Claimant is also mentioned therein along with other family members. But the fact remains that Ration Cards (Annexure-K & Annexure-L) show that Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. A-45 but he was living jointly with his parents in the Jhuggi No. A-45 and further he is not having a

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separate Ration Card issued on the address of first floor of the Jhuggi No. A-45, regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. A-45, 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.

49. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), as well as Voter ID Card (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Neha, Electricity Bill (Annexure-H), Passbook of Andhra Bank (Annexure-I), two Ration Cards (Annexure-K & Annexure-L), as well as two Voter ID Cards (Annexure-M & Annexure-N) of his father Ram Karan in support of his claim.

50. It is pointed out that his Driving Licence (Annexure-D) has been issued on 17.01.2012. The Voter ID Card No. URU 1514826 (Annexure-E) of his wife Neha has been issued on 28.03.2013, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has tendered the Aadhar Card (Annexure-F) of his wife Neha is bearing No. 3541 6198 8047 but the date of issuance is not mentioned therein. Furthermore, it is pointed out that the Appellant/Claimant has not tendered any Voter List to show that his wife Neha had used her Voter ID Card to cast vote in any of the elections after issuance of the same on 28.03.2013 and more particularly in the years from 2013 to 2015. Further, the Electricity Bill (Annexure-H) shows that his father Ram Karan had taken the electricity connection on 25.05.2009 but this document is not material because it pertains to the the Jhuggi No. A-45, which is a single dwelling unit, and regarding which DDA has already made alternative allotment in favour of his mother Poonam. The Passbook of Andhra Bank (Annexure-I) shows that the Appellant/Claimant had opened the account on 11.10.2013. The Appellant/Claimant has also tendered two Voter ID Cards (Annexure-M & Annexure-N) of his father Ram Karan. The frits Voter ID Card is bearing No. DL/03/017/003326 (Annexure-M) and it has been issued on 22.01.1995 whereas the second Voter ID Card is bearing No. URU 0940387 (Annexure-N) and it has been issued on 18.10.2008 but it is pointed out that these documents are not material because it pertains to the the Jhuggi No. A-45, which is single dwelling unit, and regarding which DDA has already made alternative allotment in favour of his mother Poonam. It is

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pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-45 regarding which he has been claiming allotment from DDA, and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, and further we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. A-45 but he was living jointly with his parents in the Jhuggi No. A-45 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further both the floors of the double storey Jhuggi No. A-45, Golden Park, Ram Pura, Delhi has been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of his mother Poonam against the said double storey Jhuggi No. A-45, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA.

51. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-45 regarding which he has been claiming allotment from DDA, and further her name also does

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not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, and further we have already held that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately & independently on the first floor of the Jhuggi No. A-45 but he was living jointly with his parents in the Jhuggi No. A-45 and he has concocted a wrong & false storey in conspiracy with his family members to maximise allotments from DDA by hook or crook and further both the floors of the double storey Jhuggi No. A-45, Golden Park, Ram Pura, Delhi has been found to be part & parcel of the same dwelling unit and further DDA has made allotment in favour of his mother Poonam against the said double storey Jhuggi No. A-45, which is a single dwelling unit, and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy/guidelines issued by DDA, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-N, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

53. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing "Survey Number F01/IEL/ISR/PMAY/DDA/235 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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54. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF SHALIMAR BAGH

Appeal No: 08-S of 2024

Date of Institution: 16.05.2024

Date of Order: 28.02.2025

Present: None for the Appellant/ Claimant Deepak S/o Chela Ram

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. 222, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. 222 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has

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rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing "Survey Number 1195/291" dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 08-S of 2024 has been filed by the present Appellant/ Claimant. In response to the notice, the Appellant/Claimant has not appeared in person in spite of several notices/reminders. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

3. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. 222 was found to exist but he had failed to submit requisite documents as per the policy guidelines 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 13.03.2024 whereby the reasons for rejection is mentioned to be **"Could not submit Aadhar Card, Bank Passbook, etc."** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

4. 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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5. It is pertinent to point out that the present appeal was placed before us for the first time on 16.05.2024 and the same was ordered to be checked & registered and Notice for Appearance was issued for 05.06.2024 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 Shalimar Bagh 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. However, he had failed to appear on 05.06.2024. Thereafter, Notice for Appearance were repeatedly issued for 08.07.2024, 01.08.2024, 23.08.2024, 17.09.2024, 23.08.2024, 08.10.2024, 07.11.2024, 09.12.2024, 09.01.2025, 31.01.2025, 12.02.2025 & thereafter for 13.02.2025 but the Appellant/ Claimant has failed to appears despite effective service.

6. On 13.02.2024 the appeal was fixed for 17.02.2025 for procuring the presence of the Appellant/ Claimant for 17.02.2025 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 Shalimar Bagh 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.

7. It is pertinent to point out that the Appellant/ Claimant had finally appeared before us for the first time on 17.02.2025 and joined the proceedings.

8. The Appellant/Claimant had appeared on 17.02.2025 and oral enquiry was conducted wherein he has stated that he is having Voter ID Card No. ZFK 1734218 and it has been issued on 14.11.2013. The Appellant/Claimant had sought a date for filing original documents on file and also the Voter List for the years 2012, 2013, 2014, 2015 and onward. Further, the Appellant/Claimant had also stated that his children Suraj, Khushi, Anchal and Laxmi are studying in the Sarvodya Kanya Vidayalya, Shalimar Bagh and had sought a date to tender the documents to prove their addresses recorded in the records of the school. In order to facilitate the Appellant/Claimant to get the requisite documents the principal of the Sarvodya Kanya Vidayalya, Shalimar Bagh as well as AERO, AC-14, Shalimar Bagh, Delhi (Election Commission) were directed to supply the requisite documents to the Appellant/Claimant. Further, the copy of order dated 17.02.2025 was also supplied dasti to the Appellant/Claimant for presenting the same before the Principal of Sarvodaya Kanya

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Vidyalaya, Shalimar Bagh for supplying documents of her children to prove their addresses recorded in the records of the school and also to the Election Commission, AERO, AC-14, Shalimar Bagh, Delhi for getting his Voter ID Card verified and also for supplying the Voter Lists of the years 2012, 2013, 2014, 2015 and onward, if available, to him as per rules.

9. However, the Appellant/Claimant did not appear physically on 24.02.2025. But on 24.02.2025, he had informed the staff attached with this Appellate Authority telephonically that he has received Letter from the Office of Election Commission, AERO, AC-14, Shalimar Bagh on 24.02.2025 and he would not join the further proceedings because he is not having requisite documents as per the policy guidelines issued by DDA. However, in the interest of justice and for complete adjudication of the matter pending before us a fresh notice was ordered to be issued on 24.02.2025 for 25.02.2025 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 Shalimar Bagh 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. However, still none appeared on 25.02.2025 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.02.2025 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 Shalimar Bagh 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. Further, this Appellate Authority had also directed the AERO, AC-14, Shalimar Bagh, Delhi to send the documents, which were supplied to the Appellant/Claimant in the light of our detailed order dated 17.02.2025 through email.

11. However, still none appeared on 27.02.2025 on behalf of the Appellant/Claimant. But it is pertinent to point out that the AERO, AC-14, Shalimar Bagh, Delhi had sent the copy of the letter No. VC/AERO/AC-14/Misc./2025/1079 dated 21.02.2025, which was supplied to the Appellant/Claimant, in the light of our detailed order dated 17.02.2025 through email. The bare perusal of the said letter No. VC/AERO/AC-14/Misc./2025/1079 dated 21.02.2025 shows that the Voter ID Card No. ZFK 1734218 of the Appellant/Claimant is not reflected in any of the Electoral Roll maintained by the Election Commission, thereby, showing that the

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Voter ID Card No. ZFK 1734218 of the Appellant/Claimant is a forged & fabricated document and accordingly the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 and accordingly the question of his name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. However, in the interest of justice Final Notice was given to the Appellant/Claimant for 28.02.2025 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 Shalimar Bagh as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 28.02.2025 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 08-S of 2024 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.

13. 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 he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

14. But as pointed out above, the AERO, AC-14, Shalimar Bagh, Delhi had sent the copy of the letter No. VC/AERO/AC-14/Misc./2025/1079 dated 21.02.2025, which was supplied to the Appellant/Claimant, in the light of our detailed order dated 17.02.2025 through email. The bare perusal of the said letter No. VC/AERO/AC-14/Misc./2025/1079 dated 21.02.2025 shows that the Voter ID Card No. ZFK 1734218 of the Appellant/Claimant is not reflected in any of the Electoral Roll maintained by the Election Commission, thereby, showing that the Voter ID Card No. ZFK 1734218 of the Appellant/Claimant is a forged & fabricated document and accordingly the Appellant/Claimant was not having a valid Voter ID Card on the cutoff

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date of 01.01.2015 and accordingly the question of his name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Thus the material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

15. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing "Survey No. 1195/291 dated 13.03.2024". Hence the same is upheld. Consequently, the present Appeal No. 08-S of 2024 is dismissed being devoid of any merit.

16. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(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 GOLDEN PARK, RAM PURA DELHI

Appeal No: 21-GP/2024

Date of Institution: 04.11.2024

Date of Order: 28.02.2025

Present: Appellant/ Claimant Ram Kumar Sah S/o Gauri Shah

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 11.09.2024 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. J-31 Golden Park, Ram Pura Delhi. A Public Notice by DDA was pasted in the Golden Park to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Golden Park. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Golden Park, Ram Pura Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. J-31 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the

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Nodal Officer, Golden Park, duly communicated its order bearing No. F01/IEL/ISR/PMAY/DDA/231 dated 11.09.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 21-GP/2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 30.12.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. J-31 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 11.09.2024 whereby the reasons for rejection is mentioned to be **"Voter Card Not *Verified*"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. J-31 as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant Ram Kumar Sah has been recorded before us on 30.12.2024 wherein he has stated that he is married with Anita and having four children; Pritam, Prince, Manisha & Muskan. All the children are unmarried.

9. The Appellant/Claimant has stated that previously he was living on rent in Azadpur, Delhi. But in the year 2016, he had purchased the Jhuggi No. J-31, Golden Park, Ram Pura, Delhi for a sale consideration of Rs. 15,000/- from one Vinay and he along with his family had shifted to Golden Park and started living there. Initially it was single storey structure but he had raise further construction and made it double storey structure.

10. The Appellant/Claimant has stated that the Jhuggi No. J-31 is a double storey structure and it comprises of one room and having a joint pucca staircase with the Jhuggi of neighbour Lakshman Sah. The Appellant/Claimant has sought alternative allotment from DDA against the said double storey Jhuggi No. J-31, Golden Park, but his claim was rejected by Eligibility Determination Committee on the ground that his Voter ID Card could not be verified in spite of the fact that he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 21-GP of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has tendered the survey records along with one video clip pertaining to the Jhuggi No. J-31 and the same was played before the Appellant/Claimant when his statement was recorded before us on 30.12.2024 wherein he has stated that the video clip pertains to the Jhuggi No. J-31 in which from outside the Jhuggi No. J-31 is clearly seen to be a pucca structure and having a joint pucca staircase with Jhuggi of the neighbor and further the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are seen and furthermore, the Appellant/Claimant is also seen holding a slate in his hand on which **"J-31 RAM KUMAR SAH G+1"** is seen to have been written.

12. The admission of the Appellant/Claimant is a clincher piece of evidence because he has categorically stated that previously he along with his family was living on rent in Azadpur, Delhi and in the year 2016 he had purchased the Jhuggi No. J-31, Golden Park, Ram Pura, Delhi from one Vinay and whole family had shifted to live in the said Jhuggi. The Appellant/Claimant has not tendered any documents with regard to the sale and the father's

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name of the vendor and other details with regard to the date & month of sale etc. have also not been disclosed but the fact remains that the Appellant/Claimant was not living on the cutoff date of 01.01.2015 in the Jhuggi No. J-31, regarding which he is claiming allotment from DDA because he had purchased the said Jhuggi in the year 2016 and had accordingly come to live in the said Jhuggi in the year 2016. However, the fact remains that on the cutoff date 01.01.2015, the Appellant/Claimant was not living in Jhuggi No. J-31 regarding which he is claiming allotment from DDA because on the cutoff date of 01.01.2015 he along with his family was living on rent in Azadpur, Delhi and further he had come to occupy the said Jhuggi No. J-31 in the year 2016 and accordingly, the Appellant/Claimant is not eligible to claim allotment from DDA as per the policy guidelines issued by DDA.

13. Thus the vendor Vinay was living in the Jhuggi No. J-31 on the cutoff date of 01.01.2015 but he has not sought alternative allotment from DDA against the said Jhuggi. However, the present Appellant/Claimant has sought allotment from DDA against the said Jhuggi No. J-31 inspite of the fact that he was admittedly not living in the Jhuggi No. J-31 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2016, therefore, the Appellant/Claimant is not eligible to claim alternative allotment from DDA against the said double storey Jhuggi No. J-31.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. J-31 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Vinay was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. J-31 inspite of the fact that he was admittedly not living in the Jhuggi No. J-31 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2016, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. J-31 as per the policy guidelines issued by DDA.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and

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2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. J-31 as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<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.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

18. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

19. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

21. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

22. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

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23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi

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whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot

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be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of

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evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar, Delhi with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar, Delhi thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High

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Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the Jhuggi No. J-31 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Vinay was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment

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from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. J-31 inspite of the fact that he was admittedly not living in the Jhuggi No. J-31 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2016, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. J-31 as per the policy guidelines issued by DDA. But despite that the Appellant/ Claimant has sought allotment from DDA against the said Jhuggi No. J-31. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. J-31 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered his Voter ID Card No. URU 2208817 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

43. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A) bearing number URU 2208817 and it has been issued on 10.01.2020, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the year 2012 to 2015 does not arise. Further, his Aadhar Card (Annexure-B) is bearing No. 4276 1080 3058 but the date of issuance is not mentioned in this document.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. J-31 Golden Park, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further we have already held that the Jhuggi No. J-31

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was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Vinay was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. J-31 inspite of the fact that he was admittedly not living in the Jhuggi No. J-31 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2016, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. J-31 as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), Aadhar Card (Annexure-E) of his wife Anita as well as the Electricity Bill (Annexure-F) & Passbook of Indian Bank (Annexure-G) in support of his claim.

46. It is pointed out that the Driving Licence (Annexure-D) of the Appellant/Claimant has been issued on 25.02.2003, much after the cutoff date of 01.01.2015. The Aadhar Card (Annexure-E) of his wife Anita is bearing No. 8214 5818 5653 and it has been issued on the address of Champaran, Bihar and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant as the same does not pertain to the Jhuggi No. J-31, regarding which he is claiming allotment from DDA. Furthermore, the Appellant/Claimant has not tendered the Voter ID Card of his wife Anita to show that she possessed a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. J-31, regarding which the Appellant/Claimant is claiming allotment from DDA. The material placed on file accordingly shows that neither the Appellant/Claimant nor his wife Anita was having a valid Voter ID Card issued on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. J-31, Golden Park, regarding which the Appellant/Claimant is claiming alternative allotment from DDA and further, their names also do not appear in any of the Voter Lists and more particularly in the years from 2012 to 2015. Further, the Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken the electricity connection on 30.01.2017, much after the cutoff date of 01.01.2015. Further, the Passbook of Indian Bank (Annexure-G) shows that the Appellant/Claimant has opened the account with the Indian Bank but the date of opening the account is not mentioned therein. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create

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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 valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. J-31 regarding which the Appellant/Claimant is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further we have already held that the Jhuggi No. J-31 was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Vinay was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. J-31 inspite of the fact that he was admittedly not living in the Jhuggi No. J-31 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2016, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. J-31 as per the policy guidelines issued by DDA.

47. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. J-31, Golden Park, Ram Pura, Delhi regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further we have already held that the Jhuggi No. J-31

was in existence in the Golden Park, Ram Pura, Delhi on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Vinay was living there but he has not sought allotment from DDA against the said Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. J-31 inspite of the fact that he was admittedly not living in the Jhuggi No. J-31 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2016, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said Jhuggi No. J-31 as per the policy guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. F01/IEL/ISR/PMAY/DDA/231 dated 11.09.2024. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court

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of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(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 SHALIMAR BAGH

Appeal No: 17-S/2024

Date of Institution: 16.05.2022

Date of Order: 28.02.2025

Present: Appellant/ Claimant Kanhiya Lal S/o Kishan Lal

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. T-54/100, Shalimar Bagh. A Public Notice by DDA was pasted in the Shalimar Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Shalimar Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA at DDA site office at Shalimar Bagh, Delhi wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. The Eligibility Determination Committee has considered the claim of the Appellant/ Claimant on merits and on verifications of documents submitted by the Appellant/ Claimant the Eligibility Determination Committee has come to the conclusion that the Appellant/ Claimant was found to have been using the said Jhuggi No. T-54/100, Shalimar Bagh for religious purposes as "Temple" and accordingly the present Appellant/

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Claimant does not fulfill the eligibility criteria as per the policy guidelines issued by DDA and consequently the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Shalimar Bagh, duly communicated its order bearing "Survey Number 18/1209" dated 13.03.2024 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 17-S of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 17.02.2025. 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. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Appellant/ Claimant's Jhuggi bearing No. T-54/100, Shalimar Bagh was found to have been used for religious purposes as "Temple" 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 13.03.2024 whereby the reasons for rejection is mentioned to be **"Temple"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/ Claimant Ram. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. T-54/100, Shalimar Bagh was rightly found to have been exclusively used for religious purposes as "Temple" on the cutoff date of 01.01.2015 and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

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8. Therefore, it has to be first seen as to what is the legal position with regard to the Jhuggi, which was found to be Religious Structure exclusively used for religious purposes, under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of 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."

9. The JJ Rehabilitation and Relocation Policy, 2015 (PART-B) delineates eligibility criteria for the allotment of alternative dwelling units to rehabilitate and relocate Jhuggi Jhopri dwellers. To qualify for the same, the Jhuggi Jhopri dwellers must be Indian citizens aged 18 or above, residing in a basti established before 01.01.2006, with a cutoff date for residency eligibility of 01.012015. It is further stipulated that their names must appear in voter lists from 2012 to 2015 and in a joint survey conducted by by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India.

10. It is mandated that there is verification in terms of biometric authentication via Aadhar Card or other mechanisms, along with possession of one of 12 specified documents issued before 01.01.2015. The specified documents for eligibility encompass passports, ration cards with photographs, electricity bills, driving licenses, identity cards issued by government bodies, passbooks from public sector banks or post offices, and various

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certificates such as SC/ST/OBC, pension, freedom fighter, physically handicapped, and health insurance scheme cards. Identity cards issued by government schools or certificates attested by school principals for descendants of JJ dwellers are also acceptable.

11. It is further stipulated that the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit. Ineligible JJ dwellers face eviction during rehabilitation, relocation, or basti clearance.

12. It is pointed out that the bare perusal of the Policy shows that it provides the scheme to rehabilitate and relocate Jhuggi Jhopri dwellers and accordingly the prime most condition is that the applicant must be living in the Jhuggi regarding which he is claiming allotment from DDA and in other words the Jhuggi should be used for residential purposes. In addition to that the cases in which the Jhuggi is used for both residential & commercial purposes to earn his livelihood, the applicant is entitled to claim alternative allotment as the use of the Jhuggi for mixed use for residential-cum-commercial purposes is permitted under the policy. But alternative allotment cannot be made under the DDA policy when the Jhuggi is exclusively used for commercial purposes or for Religious Purposes. The Religious Structure falls under separate category because such structures are predominantly used for religious purposes unconnected with residential or commercial activities. Furthermore, the Religious Structure does not fall under the category of residential or commercial purposes. Under the policy of DDA the dwellers are entitled to claim alternative allotment only when the Jhuggi is used (i) for residential purposes or (ii) for both residential & commercial purposes. Therefore, use of the Jhuggi as Religious Structure does not fall under the category of residential purposes or mixed use for residential-cum-commercial purposes. It is pertinent to point out that the nature of the Jhuggi is determined by the dominant purposes for which it is used. The residential dwelling unit, which is having a personal temple/worship area, will retain its nature to be residential because of the reason that it is predominantly used as residential and further the personal temple/worship area is not open to general public to offer worship. But in case of Jhuggi used as Religious Structure its predominant use is religious, which is open to general public for worship, and the facts that

the Pujari/Priest also resides in such Religious Structure will not change its nature to residential because it happens to be predominantly used as Religious Structure and further it is open to general public for worship. Therefore, no allotment against the Religious Structure can be made under the policy guidelines issued by DDA.

13. In the light of our discussion above, we shall now appraise the material placed on file by to determine as to whether the Appellant/ Claimant was using the Jhuggi No. T-54/100, Shalimar Bagh exclusively as Religious Structure or for residential purposes or for mixed residential-cum-commercial purposes and whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said Jhuggi No. T-54/100, Shalimar Bagh as per the policy guidelines issued by DDA.

14. First of all, we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was using the Jhuggi No. T-54/100, Shalimar Bagh exclusively as Religious Structure or for residential purposes or for mixed residential-cum-commercial purposes because as already pointed out above, the use of Jhuggi as Religious Structure precludes dwelling unit allocation as per the policy guideline issued by DDA. Furthermore, the Appellant/Claimant has stated that he is married with Puja and having four children; Neeraj, Dhiraj, Suraj & Pinki.

15. The statement of the Appellant/Claimant Kanhiya Lal has been recorded before us on 17.02.2025 wherein he has stated that his parents; Kishan Lal & Raj Kumari, are having four sons; Ram Bodh, Ram Manoj, Sant Ram & Kanhiya Lal and one daughter; Rekha. Kishan Lal had expired in the year 2007. All the children are married. Rekha is married with Suresh and she is living in her matrimonial home in Pratapgarh, Uttar Pradesh.

16. The Appellant/Claimant has stated that his brothers; Ram Bodh, Ram Manoj & Sant Ram, are married but he does not know the names of their wives but Ram Bodh is living in Punjab, Ram Manoj is living in Jabalpur, Madhya Pradesh and Sant Ram is living in Sultanpur, Uttar Pradesh along with their respective families. It is very strange that the

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Appellant/Claimant has failed to disclose the names of the wives of three of his brothers and this creates doubt & suspicion.

17. The Appellant/Claimant has stated that his mother Raj Kumari is living in the single storey Jhuggi No. T-54/100, Shalimar Bagh and regarding that his mother Raj Kumari had sought alternative allotment from DDA but her claim was rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 17 of 2024 before the Appellate Authority and the same has been rejected by the Appellate Authority on 30.09.2024. These facts are not disputed by DDA.

18. The Appellant/Claimant has stated that the local people of Shalimar Bagh had constructed a "Shiv Temple" across the gali, which is opposite the Jhuggi of his parents and further the temple is open for worship to the general masses. The Appellant/Claimant has stated that he is a drug addict and accordingly, the local people of Shalimar Bagh had permitted him to live in the "Shiv Temple". Furthermore, the said "Shiv Temple" was also given the same number i.e. Jhuggi No. T-54/100, which has been given to the Jhuggi of his mother Raj Kumari.

19. The Appellant/Claimant has stated that he along with his family is living in the said "Shiv Temple". The Appellant/Claimant has sought allotment from DDA against the said temple bearing Jhuggi No. T-54/100 but his claim was rejected by Eligibility Determination Committee on the ground that the said structure was found to be a temple in spite of the fact that he along with his family is living in the said temple and further, he was having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 17-S of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

20. However, it is very surprising that the temple and the Jhuggi of his parents are bearing same Jhuggi number, namely, Jhuggi No: T-54/100. Further, the fact of two Jhuggis having the same number creates doubt & suspicion because it gives an opportunity to unscrupulous elements to use the document prepared on the address of one Jhuggi to claim allotment from DDA against another Jhuggi thereby claiming that the other Jhuggi is

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also having the same number. It seems that the Appellant/Claimant must have got documents issued on the address of Jhuggi of his parents bearing Jhuggi No. T-54/100 in normal course and in furtherance of his conspiracy he had given the same number to the temple in order to grab allotment from DDA by hook or crook by using the documents pertaining to the Jhuggi of his parents.

21. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the Jhuggi of his mother Raj Kumari as well as the temple, regarding which the Appellant/Claimant has been claiming allotment from DDA, bears the same number, i.e., Jhuggi No. T-54/100. Further, as already pointed out above, two Jhuggis having the same number creates doubt & suspicion because it gives an opportunity to unscrupulous elements to use the documents prepared on the address of one Jhuggi to claim allotment from DDA against another Jhuggi thereby claiming that the other Jhuggi is also having the same number. This shows that the Appellant/Claimant has given the same number to the "Shiv Temple" regarding which he is claiming allotment from DDA in order to misuse the documents, which he has got prepared in normal course on the address of Jhuggi of his mother Raj Kumari. This shows that the Appellant/Claimant with a dishonest intention has concocted a wrong & false story with an intention to cheat & defraud DDA in order to grab alternative allotment from DDA by hook or crook.

22. Furthermore, the fact can also not be lost sight that the Appellant/Claimant has specifically admitted that the local people of Shalimar Bagh had constructed a "Temple" which is open for worship to the general masses and accordingly permitting the Appellant/Claimant, who happened to be a drug addict, to live in the said "Shiv Temple" on sympathetic grounds does not change the nature of the Jhuggi to residential because continued to have been predominantly used as "Temple" by the general masses. Therefore, the Appellant/Claimant is not eligible to claim alternative allotment from DDA against he said Jhuggi No. T-54/100 which been admittedly used as "Temple".

23. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that a single storey temple bearing Jhuggi No. T-54/100 was constructed by the general public with public donations and it is open to the general public for religious purposes. But the Appellant/Claimant has concocted a wrong & false story that he was permitted by the local people to live in the said temple on sympathetic grounds because he was a drug addicts.

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But the date, month & year he was allowed to live in the temple is not disclosed. Furthermore, it is a matter of common observance that no drug addicts are generally allowed to live & look after the temple. But even if for the sake of arguments is taken to be gospel truth then also it is of no help to the Appellant/ Claimant because merely permitting him to live in the temple does not change the nature of the building as religious purposes because it remained to be predominantly used for religious purposes as temple by the general public. This shows that the Jhuggi bearing survey No. T-54/100, Shalimar Bagh is not used by the Appellant/ Claimant for residential purposes but this structure has been predominantly used for Religious purposes and accordingly, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

24. Now, we shall appraise the material placed on file to determine the eligibility of the 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) & also in the year of survey and whether he possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

25. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C) and the PAN Card (Annexure-D) in support of his claim.

26. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards. The first Voter ID Card is bearing number DL/03/019/280116 (Annexure-A) and it has been issued on 22.10.1997 whereas the second Voter ID Card is bearing No. ZFK 2024149 (Annexure-B) and it has been issued on 28.03.2019. Further, the Aadhar Card (Annexure-C) is bearing No. 7819 0485 7704 but the date of issuance is not mentioned in this document. But the fact cannot be lost sight of that all the three documents (Annexure-A to Annexure-C) have been issued on the address of his mother Raj Kumari bearing Jhuggi No. T-54/100 and accordingly, all these documents are not relevant to determine the eligibility of the Appellant/Claimant. Furthermore, the Appellant/Claimant has not tendered any Voter List to shows that his name appears in the Voter list and more particularly of the years 2012 to

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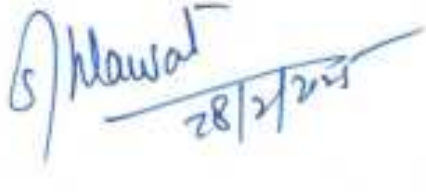
2015.

27. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of "Shiv Temple" bearing Jhuggi No. T-54/100 and his name also does not appear in the Voter List of the years of 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further she does not possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and furthermore, as per our discussion above, the Jhuggi No. T-54/100, Shalimar Bagh, regarding which he is claiming allotment from DDA, was not used for residential purposes on the cutoff date of 01.01.2015 but it was a Religious Structure as "Temple" and was exclusively used for religious purposes by general public and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

28. The Appellant/Claimant has also tendered the LIC Policy (Annexure-E) in support of his claim.

29. It is pointed out that LIC Policy (Annexure-E) of the Appellant/Claimant has been issued on 31.03.2006. However, it is pointed out that it has been issued on the address of his parents bearing Jhuggi No. T-54/100 and accordingly, it is not relevant to determine the eligibility of the Appellant/Claimant. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Jhuggi No. T-54/100, Shalimar Bagh, regarding which he is claiming allotment from DDA, was not used for residential purposes on the cutoff date of 01.01.2015 but it was a Religious Structure as "Temple" and was exclusively used for religious purposes by general public and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

30. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit


of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

31. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Jhuggi No. T-54/100, Shalimar Bagh, regarding which he is claiming allotment from DDA, was not used for residential purposes on the cutoff date of 01.01.2015 but it was a Religious Structure as "Temple" and was exclusively used for religious purposes by general public and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA. Furthermore, the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. T-54/100, Shalimar Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further he does not possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority to get alternative allotment on the basis of wrong and false facts inspite of the fact that she very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-E, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

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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 or illegality in the impugned order bearing "Survey Number 18/1209" dated 13.03.2024. 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**