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

SR.	APPLICANTS NAME	JHUGGI NO	APPEAL NO	APPEAL DATE	ORDER DATE	REMARKS
1.	UTTAM s/O NAREN	B-178	240/2022	23.11.2022	03.07.2023	REJECTED
2.	KRISHNA NAND JHA S/O SHYAMA NAND JHA	C-79	374/2023	29.11.2022	03.07.2023	REJECTED
3.	RADHA NAND JHA S/O SHYAMA NAND JHA	C-79	375/2023	29.11.2022	03.07.2023	REJECTED
4.	KIRAN DEVI W/O SANTOSH	C-82	418/2023	29.11.2022	03.07.2023	REJECTED
5.	CHANDA DEVI D/O AMANDI SHARMA	C-496	01/2022	16.11.2022	04.07.2023	REJECTED
6.	RANJAN S/O RAM DEV	B-327	297/2023	25.11.2022	04.07.2023	REJECTED
7.	ARUNA MANDAL W/O SANJAY MANDAL	C-119	537/2023	05.12.2022	04.07.2023	REJECTED
8.	PROMOD MANDAL S/O KALIPAD MANDAL	C-122	559/2023	06.12.2022	04.07.2023	REJECTED
9.	PRATIBHA CHAKRABORTY W/O PANTHA CHAKROBORTY	B-109	349/2023	28.11.2022	05.07.2023	**ALLOWED**
10.	KANHAIYA S/O SURESH BHAGAT	C-626	479/2023	30.11.2022	05.07.2023	REJECTED
11.	BABLU DAS S/O HARI DAS	C-427	491/2023	01.12.2022	05.07.2023	REJECTED
12.	KRISHAN KUMAR S/O SURESH BHAGAT	C-627	506/2023	02.12.2022	05.07.2023	REJECTED
13.	DOLI W/O AKASH	C-320	447/2023	29.11.2022	06.07.2023	REJECTED
14.	MOHINI DAS D/O MANOHAR DAS	C-27	465/2023	30.11.2022	06.07.2023	REJECTED
15.	RAJ KUMAR S/O GOPI CHAND	C-66	522/2023	02.12.2022	06.07.2023	REJECTED
16.	BADAL MISTRY S/O BIMAL MISTRY	C-155/1	557/2023	06.12.2022	06.07.2023	REJECTED
17.	MEERA BANIK W/O KANU BANIK	C-152	104/2022	22.11.2022	10.07.2023	REJECTED
18.	G. THANGAN W/O D. GOVINDEN	R-35	231/2022	23.11.2022	10.07.2023	REJECTED
19.	SHAHNAWAZ S/O MD. FAROOK	C-71	401/2023	29.11.2022	10.07.2023	REJECTED
20.	SMT. KALAWATI W/O SH. RAM BABBER	A-130	687/2023	25.01.2023	10.07.2023	REJECTED
21.	KONIKA D/O HIMANSHU MANDAL	A-18	224/2023	23.11.2022	11.07.2023	REJECTED

22.	RAJU BARMAN S/O PRIYA NATH BARMAN	B-478	311/2023	28.11.2022	11.07.2023	REJECTED
23.	RATAN BARMAN S/O PRIYA NATH BARMAN	B-478	312/2023	28.11.2022	11.07.2023	REJECTED
24.	BISWAJIT DAS S/O KANAI LAL DAS	A-18	608/2023	23.11.2022	11.07.2023	REJECTED
25.	SUMIT S/O SURENDER	B-264	18/2022	27.11.2022	12.07.2023	REJECTED
26.	KIRAN CHAKRAWATI W/O BISHWAJEET	B-264	19/2022	27.11.2022	12.07.2023	REJECTED
27.	VIKAS HALDAR S/O KARTIK	C-246	310/2023	28.11.2022	12.07.2023	REJECTED
28.	BISWAJEET HALDAR S/O KARTIK HALDAR	C-246	535/2023	05.12.2022	12.07.2023	REJECTED
29.	PANKAJ MANDAL S/O SWAPAN MANDAL	A-87	390/2023	29.11.2022	13.07.2023	REJECTED
30.	MUKESH KUMAR S/O RAM BARAN	C-495	419/2023	29.11.2022	13.07.2023	REJECTED
31.	DEEPAK MANDAL S/O RATAN MANDAL	C-324	528/2023	02.12.2022	13.07.2023	REJECTED
32.	MITALI MANDAL W/O PROBIR MANDAL	A-87	706/2023	06.12.2023	13.07.2023	REJECTED
33.	SATENDER KUMAR S/O MADAN LAL	A-82	319/2023	28.11.2022	17.07.2023	REJECTED
34.	CHHATRAPAL S/O DEEN DAYAL	B-325	329/2023	28.11.2022	17.07.2023	REJECTED
35.	KAJALI RANI D/O KESHAB LAL DAS	C-433	456/2023	30.11.2022	17.07.2023	REJECTED
36.	LILU KUMAR S/O MADAN LAL	A-82	542/2023	05.12.2022	17.07.2023	REJECTED
37.	MAMTA D/O SH. SUNIL BALA	B-127	339/2023	28.11.2022	18.07.2023	REJECTED
38.	KANAN BISWAS W/O KANKAN	B-480	383/2023	29.11.2022	18.07.2023	REJECTED
39.	KAMLA W/O PROMATHA	B-480	273/2023	25.11.2022	18.07.2023	**ALLOWED**
40.	SULEKHA ROY W/O RATAN ROY	B-480	274/2023	25.11.2022	18.07.2023	REJECTED
41.	MANOJ BISWAS S/O MANGAL BISWAS	C-450	263/2022	24.11.2022	19.07.2023	REJECTED
42.	RAJENDER KUMAR S/O BHOLA RAM	C-98	379/2023	29.11.2022	19.07.2023	REJECTED
43.	SANJAY DAS S/O RAMESH DAS	C-143	380/2023	29.11.2022	19.07.2023	REJECTED
44.	MANOJ SARKAR S/O VIPUL SARKAR	C-22	565/2023	06.12.2022	19.07.2023	REJECTED
45.	PURNIMA DAS W/O AKASH DAS	A-228	398/2023	29.11.2022	20.07.2023	REJECTED

46.	KHOKAN DAS S/O HARAN DAS	A-228	399/2023	29.11.2022	20.07.2023	REJECTED
47.	RAJ KUMAR DAS S/O HARAN	A-228	466/2023	30.11.2022	20.07.2023	REJECTED
48.	DHANANJAY PRASAD S/O PARSU RAM	C-186	658/2023	12.01.2023	20.07.2023	REJECTED
49.	JAVITRI W/O RADHEY SHYAM	B-361	340/2023	28.11.2022	21.07.2023	REJECTED
50.	AMIR HALDAR S/O BON KUMAR	C-26/A	397/2023	29.11.2022	21.07.2023	REJECTED
51.	SAMIR KUMAR HALDAR S/O BON KUMAR	C-26/A	496/2023	01.12.2022	21.07.2023	REJECTED
52.	KINGKAR PATRA S/O ISHWAR CHAND PATRA	C-163	533/2023	05.12.2022	21.07.2023	REJECTED
53.	RATAN KUMAR S/O SHANTI RANJAN	C-45	566/2023	06.12.2022	21.07.2023	**DISMISSED**
54.	DURGA SHEEL D/O HARIPADA SHEEL	C-46/1	567/2023	06.12.2022	21.07.2023	**DISMISSED**
55.	RAMSANBARE S/O CHOTE LAL	C-334	692/2023	23.02.2023	21.07.2023	**DISMISSED**
56.	DEEPAK DAS S/O S.K DAS	C-381	723/2023	23.02.2023	21.07.2023	**DISMISSED**
57.	GANESH S/O MAKHAN DAS	C-28	59/2022	21.11.2022	24.07.2023	REJECTED
58.	DIPANKAR S/O TAPAS VAIDH	A-70	603/2023	29.11.2022	24.07.2023	REJECTED
59.	TUSHAR VISHWAS S/O MIHIR VISHWAS	C-437	704/2023	06.02.2023	24.07.2023	REJECTED
60.	MINTOO VISHWAS S/O MIHIR VISHWAS	C-437	705/2023	06.02.2023	24.07.2023	REJECTED
61.	VIRIN MANDAL S/O RAVI MANDAL	C-275	385/2023	29.11.2022	25.07.2023	REJECTED
62.	BABLU S/O RAM AVTAR	C-335	432/2023	29.11.2022	25.07.2023	**DISMISSED**
63.	SHYAMAL BHADRA S/O SUMIRAN BHADRA	C-247	511/2023	02.12.2022	25.07.2023	REJECTED
64.	PIYUSH DEV S/O PARITOSH DEV	C-428	519/2023	02.12.2022	25.07.2023	**DISMISSED**
65.	BALAI MANDAL S/O GANESH MANDAL	C-276	539/2023	05.12.2022	25.07.2023	REJECTED
66.	SONU S/O GOVIND	C-206	661/2023	07.12.2022	25.07.2023	**DISMISSED**
67.	ANOOP SARKAR S/O GOVIND SARKAR	C-255	668/2023	18.01.2023	25.07.2023	**DISMISSED**
68.	ASHIF S/O RAFIQ AHMED	C-510	732/2023	07.12.2022	25.07.2023	REJECTED
69.	RANJANA JHA W/O ARUN JHA	C-106	453/2023	30.11.2022	26.07.2023	**ALLOWED**

70.	PURUSHUTTAM LAL BHATIA S/O JADA RAM	B-264	544/2023	05.12.2022	26.07.2023	REJECTED
71.	BABITA VARSHNEY D/O SATISH CHAND	C-267/1	584/2023	07.12.2022	26.07.2023	**DISMISSED**
72.	SHAKUNTLA DEVI D/O SATISH CHAND	C-447	585/2023	07.12.2022	26.07.2023	**DISMISSED**
73.	ANJALI DAS W/O NIRMAL DAS	C-407	680/2023	23.01.2023	26.07.2023	**DISMISSED**
74.	GURANG BALA S/O HARA DHAN BALA	C-319	595/2023	07.12.2022	26.07.2023	**DISMISSED**
75.	MANOJ S/O ISHWAR SINGH	B-315	32/2022	18.11.2022	27.07.2023	**DISMISSED**
76.	VIVEK GAYAN S/O AMIT GAYAN	A-235	279/2023	25.11.2022	27.07.2023	**DISMISSED**
77.	GOPAL S/O AMUL PATRA	C-133	515/2023	02.12.2022	27.07.2023	**DISMISSED**
78.	AMULLO PARMANIK S/O GOPAL PARMANIK	A-80	564/2023	06.12.2022	27.07.2023	**DISMISSED**
79.	POOJA KUMARI D/O RAJU BANERJEE	C-474	618/2023	14.12.2022	27.07.2023	**DISMISSED**
80.	TAPAS HALDAR S/O NARAYAN HALDAR	C-254	677/2023	20.01.2023	27.07.2023	**DISMISSED**
81.	MADHAV PRAMANIK S/O NIRANJAN PRAMANIK	A-80	114/2022	22.11.2022	28.07.2023	**DISMISSED**
82.	PREM KUMAR S/O ASHANAND	C-267	481/2023	30.11.2022	28.07.2023	**DISMISSED**
83.	SUNITA W/O SH. RAVI	C-545	532/2023	05.12.2022	28.07.2023	**DISMISSED**
84.	LAXMIKANT CHAKRABORTY S/O JATAN	A-226	640/2023	28.12.2022	28.07.2023	**DISMISSED**
85.	GAUTAM BURMAN S/O VIJAY BURMAN	B-423	670/2023	02.02.2023	28.07.2023	**DISMISSED**
86.	BISWAJEET MAJHI S/O SUNIL MAJHI	C-384	711/2023	07.02.2023	28.07.2023	**DISMISSED**
87.	SHAMSHAD HUSSAIN S/O SHAUKAT ALI	C-310	89/2022	21.11.2022	31.07.2023	REJECTED
88.	CHANDANA GOLDER W/O DULAL GOLDER	C-223/1	176/2022	23.11.2022	31.07.2023	REJECTED
89.	BEENA HALDAR W/O GOVIND HALDAR	B-177	239/2022	23.11.2022	31.07.2023	**DISMISSED**
90.	PRADEEP MANDAL S/O NISHA PADA MANDAL	A-225	326/2023	28.11.2022	31.07.2023	**DISMISSED**
91.	KAMLA W/O FANI BHUSHAN	B-421	384/2023	29.11.2022	31.07.2023	**ALLOWED**
92.	SONU S/O JAI NANDAN PASWAN	A-62	416/2023	29.11.2022	31.07.2023	**DISMISSED**
93.	BABU LAL S/O HALLU RAM	A-173	425/2023	29.11.2022	31.07.2023	**DISMISSED**

94.	DEEPANKAR MALLICK S/O DILIP MALLICK	C-250	538/2023	05.12.2022	31.07.2023	REJECTED
95.	NITYA NAND PATRA S/O PULIN PATRA	B-602	560/2023	06.12.2022	31.07.2023	**DISMISSED**
96.	BALRAM RAY S/O JIVAN RAY	B-627	598/2023	08.12.2022	31.07.2023	**DISMISSED**
97.	RAM PHER S/O RAM MANOHAR	B-696	635/2023	28.12.2022	31.07.2023	**DISMISSED**
98.	MUKESH KUMAR S/O TRIBHUWAN YADAV	B-696	636/2023	28.12.2022	31.07.2023	**DISMISSED**
99.	AJIT S/O JAY PRAKASH	B-513	678/2023	19.01.2023	31.07.2023	**DISMISSED**
100.	AMARNATH KASHYAP S/O DORI LAL KASHYAP	B-694	713/2023	28.01.2023	31.07.2023	**DISMISSED**

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

Appeal No: 240 of 2022

Date of Institution: 23.11.2022

Date of Order: 03.07.2023

Present: Appellant/ Claimant Uttam S/o Naren through his wife Basanti

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-178, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-178 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility

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Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/95.1/1648 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 240 of 2022 has been filed by the present Appellant/Claimant.

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

4. The statement of Basanti wife of the Appellant/Claimant Uttam S/o Naren has been recorded before us on 28.06.2023 on behalf of the Appellant/Claimant because he has gone to Kolkota, West Bangal in connection with some of his work. Basanti has also tendered documents, Annexure-A to Annexure-K, in support of the claim of the Appellant/ Claimant Uttam S/o Naren. ***It is pointed out that*** **Basanti wife of the Appellant/Claimant Uttam S/o Naren** ***has refused to sign her statement and accordingly NOTE to that effect is given with the direction that adverse inference, if any, shall be drawn at appropriate stage.*** DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-178 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Basanti W/o Uttam (Appellant/Claimant) has been recorded before us on 28.06.2023 wherein she has stated that her husband Uttam has gone to Kolkota, West Bangal in connection with some of his work and therefore she had appeared to make statement on his behalf in support of his claim. Basanti has stated that her in-laws, Naren & Parul are having two sons, Uttam & Dalip and one daughter, Lalita. All are married. Lalita is married with Budha and she is living in her matrimonial home in West Bengal. Dalip is married with Urmi and having two children, Dev & Mampi and they are living on rent. Uttam (Appellant/Claimant) is married with Basanti and having two children Kanika & Deep.

8. Basanti has stated that her in-laws, Naren & Parul, are having a double storey Jhuggi No. B-178 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. Basanti has satted that her in-laws Naren & Parul are living on the ground floor of the Jhuggi No. B-178 and regarding that DDA has made allotment in favour of her mother-in-law, Parul. These facts are not disputed by DDA.

9. Basanti has stated that she along with her husband Uttam (Appellant/Claimant) and both the children Kanika & Deep is living on the first floor of the Jhuggi No. B-178. Her husband Uttam (Appellant/Claimant) has sought allotment from DDA against the first floor of the Jhuggi No. B-178 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No.240 of 2022 before the Appellate Authority for redressal. Basanti has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in favour of her husband, Uttam (Appellant/Claimant).

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10. DDA has furnished the survey record along with eight video clips pertaining to Jhuggi No. B-178. The video clips were played before Basanti W/o Uttam (Appellant/Claimant) when her statement was recorded before us on 28.06.2023 wherein she has stated that three video clips pertain to the ground floor of Jhuggi No. B-178 in which Parul, who is the mother of Uttam (Appellant/Claimant), is seen and further her room & kitchen are also seen. The next five video clips pertain to the first floor of the Jhuggi No. B-178 in which Basanti W/o Uttam (Appellant/Claimant) is seen and further their room & kitchen are also seen. Thus the statement of Basanti W/o Uttam (Appellant/Claimant) as well as the survey records/video clips furnished by DDA has duly proved that a double storey Jhuggi No. B-178 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-178 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

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

13. Basanti W/o Uttam (Appellant/Claimant) has stated that the claim of her husband Uttam (Appellant/Claimant) has been wrongly rejected by DDA. Basanti has tendered document, Annexure-A to Annexure-K, in support of claim of the Appellant/Claimant and prayed that DDA be directed to make allotment in favour of her husband Uttam (Appellant/Claimant).

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

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dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut-off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/7/95.1/1648 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

21. Basanti W/o Uttam (Appellant/Claimant) has tendered the voter ID Card No. CXY 1071109 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) of her husband Uttam (Appellant/Claimant) and Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

22. It is pointed out that the Voter ID Card No. CXY 1071109 (Annexure-A) has been issued on 06.03.2002, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 449 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 459 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

23. Basanti W/o Uttam (Appellant/Claimant) has admitted that her husband Uttam (Appellant/ Claimant) is not having a separate Ration card on the address of the first floor of the said Jhuggi No. B-178 regarding which he is claiming allotment from DDA. Basanti has tendered Ration Card (Annexure-H), which has been issued in the name of her mother-in-law, Parul, and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-178 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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24. Basanti W/o Uttam (Appellant/Claimant) has tendered her Voter ID Card No. ARE 1147677 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) as well as the Electricity Bill (Annexure-G and the Passbook of Bank of India (Annexure-I).

25. It is pointed out that the Voter ID Card No. ARE 1147677 (Annexure-D) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken by Naren, who is the father of the present Appellant/Claimant, on 20.05.2008 on the address of ground floor of the Jhuggi No. B-178, thereby, showing that the Appellant/Claimant was not having connection on the first floor of the Jhuggi No. B-178. The Passbook of Bank of India (Annexure-I) shows that the Appellant/Claimant has opened the account on 16.04.2019. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

27. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-178 regarding which he is claiming allotment from DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that he was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria

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as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/95.1/1648 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 3/7/2023	**(Satish Ahlawat)** 3/7/2023	**(Rachna Tiwary)** 3/7/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 374 of 2023

Date of Institution: 07.11.2022

Date of Order: 03.07.2023

Present: Appellant/ Claimant Krishna Nand Jha S/o Shyam Nand Jha

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-79, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-79 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/64.1/847 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 374 of 2023 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 28.06.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-79 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

8. The Appellant/ Claimant has stated that his parents, Shyamnand Jha & Renu Devi, are having two sons, Radhanand & Krishnanand and one daughter, Pushpa. Pushpa is unmarried.

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Radhanand is married with Rita. Krishna Nand (Appellant/ Claimant) is married with Sia and having two children, Aradhya & Priyansh.

9. The Appellant/ Claimant has Stated that his family is having a triple storey Jhuggi No. C-79, and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor. The Appellant/ Claimant has Stated that his parents, Shyamnand & Renu Devi, are living on the ground floor of the Jhuggi No. C-79 and regarding that DDA has made allotment in favour of his mother Renu Devi. These facts are not disputed by DDA.

10. The Appellant/ Claimant has Stated that his brother Radha Nand along with his wife Rita is living on the second floor of the Jhuggi No. C-79 and has sought allotment from DDA against the second floor of the Jhuggi No. C-79, but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No.375 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/ Claimant has Stated that he along with his wife Sia and both the children, Aradhya & Priyansh, is living on the first floor of the Jhuggi No. C-79 and he has sought allotment from DDA against the same but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 374 of 2023 before the Appellate Authority for redressal. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. It is pointed out that both the appeals bearing Appeal No. 374 of 2023 and 375 of 2023 shall be decided separately on their individual merit.

13. DDA has furnished the survey records along with three video clips of Jhuggi No. C-79. The video clips were played before the Appellant/Claimant when her statement was recorded on 28.06.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-79, in which his mother Renu Devi is seen and her room & kitchen are also seen. The second video clip pertains to the first floor of the Jhuggi No. C-79 in which the Appellant/Claimant, Krishna Nand, is seen standing inside his room and his kitchen is also seen. The third video clip pertains to the second floor of Jhuggi No. C-79 in which his brother Radha Nand is seen standing in his room and his kitchen is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a three storey Jhuggi No. C-79 was in existence in the Bhoomiheen Camp on the

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cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. C-79 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & his family is living on the first floor of the said Jhuggi.

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

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and his name does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/64.1/847 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

24. The Appellant/Claimant has tendered his Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), Pan Card (Annexure-C), Voter List of the year 2012 (Annexure-I) and Voter list of the year 2019 (Annexure-J) .

25. It is pointed out that the Voter ID Card bearing No. CXY 1077106 (Annexure-A) has been issued on 07.03.2002, much prior to the cutoff date of 01.01.2015. The name of the Appellant/ Claimant appears at Sl. 412 in the Voter List of 2012 (Annexure-I) and at Sl. 484 in the Voter List of 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his

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name also appears in at least on the voter list of the year's 2012 & also in the year of the survey.

26. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of the first floor of the Jhuggi No. C-79 regarding which he is claiming allotment from DDA. He has tendered two Ration Cards (Annexure-G & Annexure-H). It is pointed out that the old Ration Card (Annexure-G) has been issued in the name of his father Shyam Nand Jha on 22.06.2002 and the name of the Appellant/Claimant is mentioned. The new Ration Card, (Annexure-H) has been issued in the name of his mother Renu Devi on 17.03.2015 and the name of the Appellant/Claimant is mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.1.2015 on the address of the first floor of the Jhuggi No. C-79 against which he is seeking allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered his Electricity Bill (Annexure-D), Pass Book of Bank Of Baroda (Annexure-E) and Driving License (Annexure-F).

28. It is pointed out that the Electricity Bill (Annexure-D) shows that the electricity connection has been taken by his father Shyam Nand on 07.11.2008 on the ground floor of Jhuggi No. C-79 thereby showing that the Appellant/Claimant was not having connection on the first floor of the Jhuggi No. C-79 regarding which he is claiming allotment from DDA. The Pass Book of Bank of Baroda (Annexure-E) shows that the account was opened by the Appellant/Claimant on 26.02.2020, much after the cutoff date of 01.01.2015. The driving Licence (Annexure-F) of the Appellant/Claimant has been issued on 31.07.2008. It is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 and also in the year of survey.

30. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/64.1/847 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(RANBIR SINGH) **(SATISH AHLAWAT)** **(RACHNA TIWARY)**

Addl. District & Sessions Judge (Retd.)

MEMBER **CHAIRMAN** **MEMBER**

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

Appeal No: 375 of 2023

Date of Institution: 29.11.2022

Date of Order: 03.07.2023

Present: Appellant/ Claimant Radha Nand Jha S/o Shyam Nand Jha

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-79, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-79 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/64.2/848 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 375 of 2023 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 28.06.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-79 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

8. The Appellant/ Claimant has stated that his parents, Shyamnand Jha & Renu Devi, are having two sons, Radhanand & Krishnanand and one daughter, Pushpa. Pushpa is unmarried. Krishna

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Nand is married with Sia and having two children, Aradhya & Priyansh. Radhanand (Appellant/ Claimant) is married with Rita.

9. The Appellant/ Claimant has Stated that his family is having a triple storey Jhuggi No. C-79, and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor. The Appellant/ Claimant has Stated that his parents, Shyamnand & Renu Devi, are living on the ground floor of the Jhuggi No. C-79 and regarding that DDA has made allotment in favour of his mother Renu Devi. These facts are not disputed by DDA.

10. The Appellant/ Claimant has Stated that his brother Krishna Nand along with his wife Sia & both the children, Aradhya & Priyansh, is living on the first floor of the Jhuggi No. C-79 and has sought allotment from DDA against the first floor of the Jhuggi No. C-79, but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No.374 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/ Claimant has Stated that he along with his wife Rita, is living on the second floor of the Jhuggi No. C-79 and he has sought allotment from DDA against the same but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 375 of 2023 before the Appellate Authority for redressal. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. It is pointed out that both the appeals bearing Appeal No. 374 of 2023 and 375 of 2023 shall be decided separately on their individual merit.

13. DDA has furnished the survey records along with three video clips of Jhuggi No. C-79. The video clips were played before the Appellant/Claimant when her statement was recorded on 28.06.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-79, in which his mother Renu Devi is seen and her room & kitchen are also seen. The second video clip pertains to the first floor of the Jhuggi No. C-79 in which Krishna Nand is seen standing inside his room and his kitchen is also seen. The third video clip pertains to the second floor of Jhuggi No. C-79 in which the the Appellant/Claimant, Radha Nand, is seen standing in his room and his kitchen is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a three storey Jhuggi No. C-79 was in existence in the Bhoomiheen Camp

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on the cut off date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. C-79 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & his family is living on the second floor of the said Jhuggi.

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

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the

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guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/64.2/848 dated 07.11.2022.

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

"Part-B

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

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

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

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

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

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

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

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

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alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

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

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

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

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

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

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

23. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is

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unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

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

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

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

GIST OF THE POLICY

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

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

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

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

30. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

31. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1080761 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

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32. It is pointed out that the Voter ID Card No. CXY 1080761 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 440 in the Voter List of the year 2014 (Annexure-H) and at Sl. No. 485 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of the survey.

33. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of the second floor of the Jhuggi No. C-79 regarding which he is claiming allotment from DDA. He has tendered two Ration Cards (Annexure-E & Annexure-F). It is pointed out that the old Ration Card (Annexure-E) has been issued in the name of his father Shyam Nand Jha on 22.06.2002 and the name of the Appellant/Claimant is mentioned. The new Ration Card, (Annexure-F) has been issued in the name of his mother Renu Devi on 17.03.2015 and the name of the Appellant/Claimant is mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.1.2015 on the address of the second floor of the Jhuggi No. C-79 against which he is seeking allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

34. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D) and the Passbook of Indian Overseas Bank (Annexure-G).

35. It is pointed out that the Electricity Bill (Annexure-D) shows that the electricity connection has been taken by his father Shyamnand Jha on 07.11.2008 on the address of the ground floor of the Jhuggi No. C-79, thereby, showing that the Appellant/Claimant was not having a separate electricity connection on the address of the second floor of the Jhuggi No. C-79, regarding which he is claiming allotment from DDA. The Passbook of Indian Overseas Bank (Annexure-G) shows that the Appellant/Claimant had opened the account on 03.09.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 and further the Appellant/

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

36. The material placed on file shows that the Appellant/ Claimant has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-79 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/64.2/848 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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(RANBIR SINGH) **(SATISH AHLAWAT)** **(RACHNA TIWARY)**

Addl. District & Sessions Judge (Retd.)

MEMBER **CHAIRMAN** **MEMBER**

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

Appeal No: 418 of 2023

Date of Institution: 29.11.2022

Date of Order: 03.07.2023

Present: Appellant/ Claimant Kiran Devi W/o Santosh

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-82, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-82 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/62/87.1/1353 dated 07.11.2022 to the present

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Appellant/Claimant. Aggrieved by the same, the present Appeal No. 418 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 19.06.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-82 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Kiran Devi, has been recorded before us on 19.06.2023 wherein she has stated that her in-laws, Joginder & Buchchi, are having

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one son Santosh. Joginder had expired on 02.02.2020. Santosh is married with Kiran (Appellant/Claimant) and having four children Anjali, Manvi, Om & Preeti.

8. The Appellant/Claimant has stated that her in-laws, Joginder & Buchchi, are having a double storey Jhuggi No. C-82 and the ground floor is having two portions out of which one portion is used as a tea stall by the Appellant/Claimant and her husband Santosh whereas the other portion is used for living purpose by her mother-in-law Buchchi. The first floor is having one room and further, a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her in-laws, Joginder (up to his death on 02.02.2020) & Buchchi, are living in one of the portion on the ground floor of the Jhuggi No. C-82 and regarding that DDA has made allotment in favour of mother-in-law Buchchi.

10. The Appellant/Claimant has stated that she as well as her husband Santosh were running a tea stall in the second portion of the ground floor but they have neither submitted the presentation to DDA for getting allotment against that portion nor got the survey conducted. The Appellant/Claimant has specifically stated that she had sought alternative allotment from DDA against the first floor of Jhuggi No. C-82 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 418 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the Appellant/Claimant has not submitted the presentation to the DDA thereby claiming that she along with her husband has been running tea stall in one of the portions on the ground floor whereas the first floor was used by them for living purposes. Had the Appellant/Claimant & her husband Santosh running the tea stall then they would have come forward thereby disclosing the true facts to the DDA and thereby taking a clear stand that they have running a tea stall on the ground floor and using the first floor for living purpose. This shows that the Appellant/Claimant were not running a tea stall from one of the portions on the ground floor because had it

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been so then they would have also got the survey conducted of the alleged tea stall but this was not done by the Appellant/Claimant.

12. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-82. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 19.06.2023 in which the Appellant/Claimant has stated the first video clop pertains to the ground floor of Jhuggi No. C-82 in which the room & kitchen of her mother-in-law Buchchi is seen and further, Buchchi along with her son Santosh, who is the husband of the present Appellant/Claimant, is also seen and a pucca staircase s going from the ground floor to the upper floor is also seen. The second video clip pertains to the first floor in which the Appellant/Claimant is seen and further, her room & kitchen are also seen and further, a pucca staircase is going from the ground floor to the first floor is also seen. It is pointed out that in these video clips the alleged tea stall on the ground floor is not seen.

13. The Appellant/Claimant has tendered a pen drive (Annexure-M) thereby, containing the video clips of Jhuggi No. C-82 and the same has been saved in the computer along with the video clips prepared by the survey team. The Pen Drive was played before the Appellant/Claimant when her statement was recorded before us on 19.06.2023 wherein she has stated in the Pen Drive the room of her mother-in-law, Buchchi, is seen on the ground floor and further a pucca staircase is seen going from the ground floor to the first floor and her room & kitchen on the first floor are also seen and furthermore, a small portion on the ground floor is also seen but there is no sign that this portion has been used as a tea stall but instead it is seen fully packed with household articles. This negates story put forward by the Appellant/Claimant that second portion was used by her and her husband Santosh for running a tea stall. Thus the statement of the Appellant/Claimant as well as the survey records/video clips furnished by DDA and the pen drive (Annexure-M) furnished by the Appellant/Claimant has duly proved that a double storey Jhuggi No. C-82 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was using the first floor of the said Jhuggi for residential purposes but the Appellant/Claimant & her husband Santosh running a tea stall on the ground floor of the said Jhuggi is not proved.

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14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-82 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

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

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/62/87.1/1353 dated 07.11.2022.

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

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"Part-B

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

24. The Appellant/Claimant has tendered Voter ID Card No. CXY 1104116 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

25. It is pointed out that the Voter ID Card No. CXY 1104116 (Annexure-A) has been issued on 18.03.2002, much prior to the cutoff date 01.01.2015. The name of the

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Appellant/Claimant appears at Sl. No. 463 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 509 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in the voter list of the year's 2014 & also in the year of survey.

26. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. C-82 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her joint Ration Card (Annexure-L), which has been issued in the name of her mother-in-law, Buchchi, on 28.10.2014 and the name of the Appellant/Claimant is also mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-82 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has also tendered the Voter ID Card No. DL/03/035/249214 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) & Driving License (Annexure-G) of her husband Santosh as well as the Passbook of PNB (Annexure-H) and the Electricity Bill (Annexure-I).

28. It is pointed out Voter ID Card No. DL/03/035/249214 (Annexure-D) has been issued on 23.02.1995, much prior to the cutoff date 01.01.2015. Driving License (Annexure-G) of Santosh has been issued on 17.06.2002. The Passbook of PNB (Annexure-H) shows that the Appellant/Claimant had opened the account on 28.08.2019, much after the cutoff date 01.01.2015. The Electricity Bill (Annexure-I) shows that the Appellant/Claimant had taken the connection on 20.01.2020, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-82 regarding which she is claiming allotment from DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that she was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

31. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/62/87.1/1353 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

3/7/2023

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

3/7/2023

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

3/7/2023

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 01 of 2022

Date of Institution: 16.11.2022

Date of Order: 04.07.2023

Present: Appellant/ Claimant Chanda Devi W/o Ram kumar D/o Anandi Sharma

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-496, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-496 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/62/28.G/1326 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 01 of 2022 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 16.01.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-T, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-496 was found to exist on the ground floor but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant Chanda Devi @ Lakho Devi W/o Ram Kumar @ Dinesh Kumar has been recorded before us on 16.01.2023 wherein she has stated that she is having one son Bharat and three daughters Rita, Kiran & Vandana. Bharat is

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unmarried whereas all the three daughters are living in their respective matrimonial homes.

8. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. C-496 and it comprises of one room on the ground floor and one kitchen on the first floor and an iron ladder is placed outside in the gali for going to the upper floor. The Appellant/Claimant along with her husband Ram Kumar/Dinesh Kumar as well as unmarried son Bharat is living in the said double storey Jhuggi No. C-496. The Appellant/Claimant has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 01 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-T, in support of her claim and prayed that DDA be directed to make allotment in her favour.

9. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-496. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 16.01.2023 wherein she has stated that the first video clip pertains to the ground floor in which the Appellant/Claimant is seen on the ground floor of Jhuggi No. C-496 and further her room is also seen. The second video clip pertains to the first floor in which the kitchen is seen and further an iron ladder is placed outside in the gali for going to the upper floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. C-496 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the same for residential purpose.

10. Accordingly, we have no hesitation in holding that the double storey pucca Jhuggi No. C- 496 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is using the same for residential purpose.

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

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year of survey and whether she is entitled to claim allotment against the said double storey pucca Jhuggi No. C- 496 as per the policy guidelines issued by DDA.

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

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

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

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floor, the same will also be considered for allotment of a separate dwelling units.

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

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

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

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

15. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further

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whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor as per the policy guidelines issued by DDA.

16. The Appellant/Claimant, Chanda Devi, has tendered her three Voter ID Cards (Annexure-A to Annexure-C), the Voter List of the year 2012 (Annexure-P), the Voter List of the year 2013 (Annexure-Q), the Voter List of the year 2014 (Annexure-R), and the Voter List of the year 2015 (Annexure-S) as well as three Voter ID Cards (Annexure-D to Annexure-F) of her husband. It is pointed out that in these documents different names of the Appellant/Claimant as well as her husband have been given as reflected in the comparative table given below:-

A. Voter Cards of the Appellant/Claimant and her husband

S. No.	***ID Card No.***	***Issuance Date***	***Name & Address***	***Annexure***
1.	*DL/03/035/252228*	*03.02.1995*	*Lakho Devi W/o Dinesh Sharma C-496, Bhoomiheen Camp*	*A.*
2.	*ARE 1175850*	*27.10.2008*	*Lakho Devi W/o Dinesh Sharma C-496, Bhoomiheen Camp*	*B.*
3.	*ARE 2195758*	*26.11.2018*	*Chanda Devi W/o Ram Kumar C-496, Bhoomiheen Camp*	*C.*
4.	*DL/03/035/252227*	*03.02.1995*	*Dinesh Sharma S/o Keshav Sharma, C-496, Bhoomiheen Camp*	*D.*
5.	*ARE 1175835*	*27.10.2008*	*Dinesh Sharma S/o Keshav Sharma, C-496, Bhoomiheen Camp*	*E.*
6.	*ARE 2199685*	*26.11.2018*	*Ram Kumar S/o Sahdev Sharma C-496, Bhoomiheen Camp*	*F.*

B. Voter Lists

Voter ID NO. & Name of holder	***Voter List year***	***Serial No.***	***Annexure***
ARE1175850 *Lakho Devi W/o Dinesh Sharma*	*2012*	*192*	*P.*
	2013	*192*	*Q.*
	2014	*180*	*R.*
	2015	*187*	*S.*
ARE 2195785 *Chanda Devi W/o Ram Kumar*	*2019*	*287*	*T.*

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17. The comparative table accordingly shows that one Lakho Devi W/o Dinesh Sharma has got the first Voter ID Card (Annexure-A) bearing number DL/03/035/252228 issued on 03.02.1995, much prior to the cutoff date of 01.01.2015. However, no voter list has been placed on file to show that the Voter ID Card No. DL/03/035/252228 (Annexure-A) has been ever used to cast vote by the said Lakho Devi W/o Dinesh Sharma. It is also pointed out that during the subsistence of the first Voter ID Card No. DL/03/035/252228 (Annexure-A) the said Lakho Devi W/o Dinesh Sharma had got the second Voter ID Card No. ARE 1175850 (Annexure-B) issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The name of said Lakho Devi W/o Dinesh Sharma appears at Sl. No. 192 in the Voter List of the year 2012 (Annexure-P), at Sl. No. 192 in the Voter List of the year 2013 (Annexure-Q), at Sl. No. 180 in the Voter List of the year 2014 (Annexure-R), and at Sl. No. 187 in the Voter List of the year 2015 (Annexure-S) in which the number of the Voter ID Card is mentioned to be bearing No. ARE 1175850. There is no doubt that all the abovementioned documents have been issued on the address of Jhuggi No. C-496 regarding which the present Appellant/ Claimant, Chanda Devi, is claiming allotment from DDA but all these documents have been issued in the name of Lakho Devi W/o Dinesh Sharma and not in the name of Chanda Devi W/o Ram Kumar. This creates doubt and suspicion.

18. The Appellant/Claimant, Chanda Devi, has tendered the third Voter ID Card No. ARE 2195758 (Annexure-C), which has been issued on 26.11.2018, much after the cutoff date of 01.01.2015 and in that the name is mentioned to be Chanda Devi W/o Ram Kumar and it has been issued on the address of Jhuggi No. C-496 regarding which the present Appellant/ Claimant, Chanda Devi, is claiming allotment from DDA. The name of said Chanda Devi W/o Ram Kumar appears at Sl. No. 287 in the Voter List of the year 2019 (Annexure-T). Here it is pertinent to point out that if the name of the Appellant/Claimant, Chanda Devi, as well her husband Ram Kumar was wrongly mentioned to be "Lakho Devi" and "Dinesh Kumar" then the mistake would have been corrected by getting the same corrected in the Voter ID Card No. ARE 1175850 (Annexure-B).

19. Here it is also pertinent to point out that in the first Voter ID Card (Annexure-A) bearing number DL/03/035/252228 issued on 03.02.1995 the name is mentioned to be Lakho Devi W/o Dinesh Sharma. The Appellant/Claimant has got the second Voter ID Card No. ARE 1175850 (Annexure-B) issued on 27.10.2008 and in that also the

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name is mentioned to be Lakho Devi W/o Dinesh Sharma. Firstly, the purpose of getting the second Voter ID Card No. ARE 1175850 (Annexure-B) is not explained when the first Voter ID Card bearing number DL/03/035/252228 (Annexure-A) was in existence and further even if the Appellant/Claimant has decided to get the second Voter ID Card issued then there was an opportunity to get the names corrected but this was not done. Instead the Appellant/Claimant continued to cast her vote under the name of "Lakho Devi W/o Dinesh Sharma" from 2012 to 2015. But suddenly the Appellant/Claimant had decided to get the third Voter ID Card No. ARE 2195758 (Annexure-C) issued on 26.11.2018 in the name of "Chanda Devi W/o Ram Kumar" instead of getting the names correctly mentioned in the second Voter ID Card No. ARE 1175850 (Annexure-B).

20. Furthermore, the comparative table shows that one Dinesh Sharma S/o Keshav Sharma has got the first Voter ID Card (Annexure-D) bearing number DL/03/035/252227 issued on 03.02.1995, much prior to the cutoff date of 01.01.2015. However, no voter list has been placed on file to show that the Voter ID Card No. DL/03/035/252227 (Annexure-D) has been ever used to cast vote by the said Dinesh Sharma S/o Keshav Sharma. It is also pointed out that during the subsistence of the first Voter ID Card No. DL/03/035/252227 (Annexure-D) the said Dinesh Sharma S/o Keshav Sharma had got the second Voter ID Card No. ARE 1175835 (Annexure-E) issued on 27.10.2008, much prior to the cutoff date of 01.01.2015. The third Voter ID Card No. ARE 2199685 (Annexure-F) has been issued on 26.11.2018, much after the cutoff date of 01.01.2015 and in that the name is mentioned to be Ram Kumar S/o Sahdev Sharma.

21. Here it is also pertinent to point out that in the first Voter ID Card (Annexure-D) bearing number DL/03/035/252227 issued on 03.02.1995 the name is mentioned to be Dinesh Sharma S/o Keshav Sharma. But the second Voter ID Card No. 1175835 (Annexure-E) issued on 27.10.2008 and in that also the name is mentioned to be Dinesh Sharma S/o Keshav Sharma. Firstly, the purpose of getting the second Voter ID Card No. 1175835 (Annexure-E) is not explained when the first Voter ID Card bearing number DL/03/035/252227 (Annexure-D) was in existence and further even if it has been decided to get the second Voter ID Card issued then there was an opportunity to get the names corrected but this was not done. But suddenly it was decided to get the third Voter ID Card No. ARE 2199685 (Annexure-F) issued on 26.11.2018 in the name

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of "Ram Kumar S/o Sahdev Sharma" instead of getting the names correctly mentioned in the second Voter ID Card No. ARE 1175835 (Annexure-E).

C. Aadhar Cards of the Appellant/Claimant and her husband

22. The Appellant/Claimant, Chanda Devi, has tendered her Aadhar Card (Annexure-G) and that of her husband (Annexure-H). It is pointed out that in these documents different names of the Appellant/Claimant as well as her husband have been given as reflected in the comparative table given below: -

S. No.	***Aadhar Card No.***	***Name & Address***	***Annexure***
1.	*7282 8080 4480*	*Lakho Devi W/o Dinesh Sharma* *C-496, Bhoomiheen Camp*	*G.*
2.	*2702 9736 1182*	*Dinesh Sharma S/o Keshav Sharma* *C-496, Bhoomiheen Camp*	*H.*

D. PAN Cards of the Appellant/Claimant and her husband

23. The Appellant/Claimant, Chanda Devi, has tendered her Pan Card (Annexure-I) and that of her husband (Annexure-J). It is pointed out that in these documents different names of the Appellant/Claimant as well as her husband have been given as reflected in the comparative table given below:-

S. No.	***PAN Card No.***	***Name***	***Annexure***
1.	*FBDPD5808Q*	*Chanda Devi D/o Anandi Sharma*	*I.*
2.	*ANZPK1362K*	*Ram Kumar S/o Sahdev Sharma*	*J.*

E. Ration Cards of the Appellant/Claimant and her husband

24. The Appellant/Claimant, Chanda Devi, has tendered her three Ration Cards (Annexure-K to Annexure-M). It is pointed out that in these documents different names of the Appellant/Claimant as well as her husband have been given as reflected in the comparative table given below:-

S. No.	***Issuance Date***	***Name of dependents***	***Annexure***
1.	*01.06.2007*	***Dinesh Sharma*** *& Lakho*	*K.*
2.	*22.11.2014*	***Lakho Devi*** *& Dinesh Sharma*	*L.*
3.	*Date not mentioned*	***Chanda Devi*** *& Ram Kumar*	*M.*

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F. Electricity Bill of the Appellant/Claimant and her husband

S. No.	*Name of Holder*	*Issuance Date*	*Annexure*
1.	*Ram Kumar*	*16.10.2018*	*N.*

G. Newspaper cutting – "Dainik Jagran" dated 22.10.2018 (**Annexure**-O)

25. The Appellant/Claimant has tendered the publication dated 22.12.2018 (Annexure-O), which was got published by Chando Devi W/o Ram kumar in "Dainik Jagran" in which it is mentioned that her name is wrongly recorded to be "Lakho Devi" in the school record of her son Bharat Kumar and it may be correctly recorded to be "Chanda Devi". But it is nowhere mentioned that the name of her husband has also been wrongly mentioned to be "Dinesh Sharma" and the same be also corrected to be "Ram Kumar".

26. Similarly, in this publication dated 22.12.2018 (Annexure-O) in "Dainik Jagran" Ram Kumar S/o Sahdev Sharma has got it published that his name is wrongly recorded to be "Dinesh Sharma" in the school record of his son Bharat Kumar and it may be correctly recorded to be "Ram Kumar". But it is nowhere mentioned that the name of his wife has also been wrongly mentioned to be "Lako Devi" and the same be also corrected to be "Chando Devi" and further nothing is mentioned about the name of his father which has been differently mentioned because in Voter ID Cards (Annexure-D & Annexure-E) the name is mentioned to be "Dinesh Sharma S/o Keshav Sharma" whereas in Voter ID Card (Annexure-F) the name is mentioned to be "Ram Kumar S/o Sahdev Sharma". Thus it further creates doubt & suspicion and shows that the Appellant/Claimant has been getting the name changed much after the cutoff date of 01.01.2015 under some conspiracy to create documents to claim allotment from DDA by hook and crook.

27. The material placed on file shows that the Appellant/ Claimant as well as her husband had changed their names as well as the names of their spouses and their parents by getting different documents issued at different stages and different times as per their convenience in flagrant disregard of the settled procedures by the Government Department/ Agencies/ Authorities and also by keeping them in dark about the existence of previous documents. Further, as already pointed out above, the Appellant/Claimant, Chanda Devi, has tendered her three Ration Cards (Annexure-K to Annexure- M). The first Ration Card (Annexure-K) has been issued on 01.06.2007 in

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the name of "Dinesh Sharma S/o Keshav Sharma" and the name of his wife is mentioned to be "Lakho Devi". The second Ration Card (Annexure-L) has been issued on 22.11.2014 in the name of "Lakho Devi W/o Dinesh Sharma" and the name of her husband is mentioned to be "Dinesh Sharma". The third Ration Card (Annexure-M) has been issued in the name of "Chando Devi W/o Ram Kumar" and the name of her husband is mentioned to be "Ram Kumar".

But interestingly the Aadhar Card (Annexure-G) has been issued in the name of "Lakho Devi W/o Dinesh Sharma" and not in the name of "Chando Devi W/o Ram Kumar" under which identity the Appellant/ Claimant is claiming allotment from DDA. Further the Aadhar Card (Annexure-H) has been issued in the name of "Dinesh Sharma S/o Keshav Sharma" and not in the name of "Ram Kumar S/o Sahdev Sharma" under which identity the Appellant/ Claimant is claiming allotment from DDA.

28. The material placed on file shows that the Appellant/ Claimant has changed her name as well as the name of her spouse by getting different documents issued at different stages and different times as per her convenience in flagrant disregard of the settled procedures by the Government Department/ Agencies/ Authorities and also by keeping them in dark about the existence of previous documents. The first Voter ID Card No. DL/03/035/252228 (Annexure-A) issued on 03.02.1995 and the second Voter ID Card No. ARE 1175850 (Annexure-B) issued on 27.10.2008 have been issued in favour of "Lakho Devi W/o Dinesh Sharma". The second Voter ID Card No. ARE 1175850 (Annexure-B) was also used to cast vote from 2012 to 2015 as reflected in the Voter Lists, Annexure- P to Annexure-S under the name "Lakho Devi W/o Dinesh Sharma". But instead of getting the entries changed in the second Voter ID Card No. ARE 1175850 (Annexure-B), the Appellant/ Claimant had got the third Voter ID Card No. ARE 2195758 (Annexure-C) issued on 26.11.2018 in the name of "Chando Devi W/o Ram Kumar" and used this Voter ID Card to cast her vote in 2019 as reflected in the Voter List, Annexure- T. This shows that in the third Voter ID Card No. ARE 2195758 (Annexure-C) the name as well as the name of the spouse has been changed from "Lakho Devi W/o Dinesh Sharma" to "Chando Devi W/o Ram Kumar". This shows that altogether new identity was created. The publication dated 22.12.2018 made in "Dainik Jagran" (Annexure-O) is nothing but a futile attempt to cover up the evil design of usurping new identity.

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29. Similarly, the husband of the present Appellant/ Claimant has changed his name as well as the name of his father by getting different documents issued at different stages and different times as per his convenience in flagrant disregard of the settled procedures by the Government Department/ Agencies/ Authorities and also by keeping them in dark about the existence of previous documents. The first Voter ID Card No. DL/03/035/252227 (Annexure-D) issued on 03.02.1995 and the second Voter ID Card No. 1175835 (Annexure-E) issued on 27.10.2008 have been issued in favour of "Dinesh Sharma S/o Keshav Sharma". But instead of getting the entries changed in the second Voter ID Card No. 1175835 (Annexure-E) the third Voter ID Card No. ARE 2199685 (Annexure-F) has been got issued on 26.11.2018 in the name of "Ram Kumar S/o Sahdev Sharma". This shows that in the third Voter ID Card No. ARE 2199685 (Annexure-F) the name as well as the name of his father has been changed from "Dinesh Sharma S/o Keshav Sharma" to "Ram Kumar S/o Sahdev Sharma". This shows that altogether new identity was created. The publication dated 22.12.2018 made in "Dainik Jagran" (Annexure-O) is nothing but a futile attempt to cover up the evil design of usurping new identity.

30. The material placed on file shows that the Appellant/ Claimant in collusion with her husband had created & forged documents in execution of their conspiracy to cheat & defraud DDA in claiming allotment on the basis of wrong & false claim. The documents, Annexure-A to Annexure-T, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

31. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/62/28.G/1326 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

(Ranbir Singh) 4/7/2023	(Satish Ahlawat) 4/7/2023	(Rachna Tiwary) 4/7/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 297 of 2023

Date of Institution:25.11.2022

Date of Order: 05.07.2023

Present: Appellant/ Claimant Ranjan S/o Ram Dev

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-327, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-327 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer. Bhoomiheen Camp, duly communicated its order bearing No. 385/67/099.1.1/1540 dated

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07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 297 of 2023 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 28.06.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-327 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card & separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

8. The statement of the Appellant/Claimant, Ranjan, has been recorded before us on 28.06.2023 wherein he has stated that his parents, Ram Dev & Parvati, are having two sons,

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Ranjan & Niranjan. Niranjan is married with Vimla and having one son Saurabh. Ranjan (Appellant/Claimant) is married with Seema and having two sons, Ashish & Divyansh.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. B-327 and it comprises of one room & kitchen on the ground floor; one room & a kitchen on the first floor and one room on the second floor.

10. The Appellant/Claimant has stated that his parents, Ram Dev and Parvati, are living on the ground floor of the Jhuggi No. B-327 and regarding that DDA has made allotment in favour of his mother Parvati. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Niranjan is living on the second floor of the Jhuggi along with his wife Vimla & son Saurabh and he is sharing kitchen with his parents on the ground floor. Niranjan has sought allotment from DDA against the second floor of the Jhuggi No. B-327 but his claim has been rejected by the Eligibility Determination Committee. However, he has not filed any Appeal before the Appellate Authority.

12. The Appellant/Claimant has stated that he along with his wife Seema and both the children, Ashish & Divyansh, is living on the first floor of Jhuggi No. B-327. The Appellant/Claimant has sought allotment from DDA against the the first floor of Jhuggi No. B-327 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 297 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey records along with six video clips of Jhuggi No. B-327. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.06.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor in which his mother Parvati is seen and further, her room & kitchen are also seen of the ground floor. A pucca staircase going from outside in the gali to the upper floor is also seen. Two video clips pertain to the first floor in which the Appellant/Claimant Ranjan is seen on the first floor of the Jhuggi and further, his room & kitchen are also seen. In the next two video clips, his brother Niranjan is seen on the second floor. His room is seen but there is no kitchen seen in these two video clips. Niranjan is also heard saying that he shares a common kitchen with his parents on the ground floor and they

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use the second floor only for residential purposes. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a three storey Jhuggi No. B-327 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. B-327 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant & his family is living on the first floor of the said Jhuggi.

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

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and his name does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/67/099.1.1/1540 dated 07.11.2022.

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

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

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

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

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

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

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

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

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fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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

GIST OF THE POLICY

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

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

24. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2013 (Annexure-L and Voter List of the year 2019 (Annexure-M).

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25. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & Annexure-B) and both are bearing the same number, i.e., Voter ID Card No. CXY 1164821. The first Voter ID Card (Annexure-A) has been issued on 30.10.2005, much before the cutoff date of 01.01.2015. The second Voter ID Card (Annexure-B) has been issued on 03.08.2010, much prior to the cutoff date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 126 in the Voter List of the year 2013 (Annexure-L) and at Sl. No. 286 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2013 & also in the year of the survey.

26. It is pointed out that the Voter ID Card (Annexure-A) bearing No. CXY 1077106 has been issued on 27.10.2008, much prior to the cutoff date of 01.01.2015 and his name appears at SL 440 in the Voter List of 2014 and at SL 485 in the Voter List of 2019. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of the survey i.e 2019.

27. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. B-327 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered three Ration Cards (Annexure-J, Annexure-J/1 & Annexure-K). The first joint Ration Card (Annexure-J) has been issued in the name of his father Ram Dev on 01.06.2007 and the name of the Appellant/Claimant is mentioned. The second joint Ration Card (Annexure-J/1) has been issued in favour of his father Ram Dev on 06.01.2010 and the name of the Appellant/Claimant has been mentioned. The third joint Ration Card (Annexure-K) has been issued in favour of his mother Parvati and the name of the Appellant/Claimant as well as his wife has been mentioned but the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.1.2015 on the address of Jhuggi No. B0-327 against which he is seeking allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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28. The Appellant/Claimant has tendered the Voter ID Card (Annexure-E), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of his wife Seema, his Passbook of PNB (Annexure-F) as well as Electricity Bill (Annexure-G).

29. It is pointed out that the Voter ID Card (Annexure-E) has been issued on 23.05.2013. The Passbook of PNB (Annexure-F) shows that the account has been opened by the Appellant/Claimant on 25.03.2021. The Electricity Bill (Annexure-G) shows that the connection has been taken by his father Ramdev on 03.06.2008 thereby showing that the Appellant/Claimant was not having a separate Electricity connection on the first floor of the Jhuggi No. B-327 regarding which he is claiming allotment from DDA. It is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2013 and also in the year of survey.

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

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issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/67/099.1.1/1540 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

5/7/2023

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

5/7/2023

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

5/7/2023

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 537 of 2023

Date of Institution: 05.12.2022

Date of Order: 04.07.2023

Present: Appellant/ Claimant Aruna Mandal W/o Sanjay Mandal

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-119, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-119 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp,

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duly communicated its order bearing No. 385/36/13.1/929 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 537 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 04.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-119 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

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7. The statement of the Appellant/Claimant, Aruna Mandal, has been recorded before us on 04.05.2023 wherein she has stated that her in-laws, Kalipad Madal & Tara, are having four sons, Subodh, Sanjay, Pramod & Jai and one daughter Mithu. Kalipad has expired in the year 2015. All the children are married. Mithu is living in her matrimonial home in Tughalaqabad, Delhi. Subodh is married with Archana and having two children, Ashish & Monika. Jai is married with Alka and having one son Dhiman. Pramod Mandal is married with Sukeshi and having two sons; Sagar & Aditya. Sanjay is married with Aruna (Appellant/Claimant) and having one daughter Sneha.

8. The Appellant/Claimant has stated that her family is having two Jhuggis bearing No. C-119 & C-122 in Bhoomiheen Camp and both the Jhuggis are located nearby. Both the Jhuggis are double storey structure and having one room on each floor. Jhuggi No. C-119 is having an iron ladder placed in the gali for going to the first floor whereas Jhuggi No. C-122 is having a pucca staircase constructed in the gali for going to the first floor.

Jhuggi No. C-122

9. The Appellant/Claimant has stated that her mother-in-law Tara along with the family of her son Jai is living on the ground floor of Jhuggi No. C-122 and regarding that DDA has made allotment in favour of her mother-in-law Tara. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Pramod along with his wife Sukeshi and both the children, is living on the first floor of the Jhuggi No. C-122 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 559 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. It is pointed out that both the appeals bearing Appeal No. 537 of 2023 and Appeal No. 559 of 2023 shall be decided separately on their individual merit.

Jhuggi No. C-119

12. The Appellant/Claimant has stated that Subodh along with his wife Archana and children is living on the ground floor of Jhuggi No. C-119 and regarding that DDA has made allotment in favour of Archana. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that she along with her husband Sanjay and daughter

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Sneha is living on the first floor of Jhuggi No. C-119. The Appellant/Claimant has sought allotment against the first floor of the said Jhuggi No. C-119 but her c;aim has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 537 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in her favour.

Videos of Jhuggi No. C-122

14. DDA has furnished the survey record along with 2 video clips pertaining to Jhuggi No. C-122. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.05.2023 wherein she has stated that in one video clip her mother-in-law Tara is seen on the ground floor of the Jhuggi No. C-122 and her room & kitchen are also seen. In the other one video, Sukeshi W/o Pramod is seen on the first floor of the Jhuggi No. C-122 and her room is also seen.

Videos of Jhuggi No. C-119

15. DDA has furnished the survey record along with 3 video clips pertaining to Jhuggi No. C-119. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.05.2023 wherein she has stated that two videos pertain to the ground floor of the Jhuggi No. C-119 in which Archana is seen and her room & kitchen are also seen. In the other one video clip, Aruna (Appellant/Claimant) W/o Sanjay is seen on the first floor of Jhuggi No. C-119 and her room & kitchen are also seen. Further, an iron ladder going from the ground floor to the first floor is also seen.

16. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-122 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and Pramod (Appellant/Claimant of Appeal No. 559 of 2023) along with his family was using the first floor of the said Jhuggi for residential purposes. Furthermore, the statement of the Appellant/Claimant as well as the survey records/video clips has also duly proved that a double storey Jhuggi No. C-119 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and Aruna W/o Sanjay (Appellant/Claimant of Appeal No. 537 of 2023) along with her family was using the first floor of the said Jhuggi for residential purposes.

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17. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-119 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

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

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

20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/13.1/929 dated 07.11.2022.

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

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"Part-B

<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."

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

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

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

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

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

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

GIST OF THE POLICY

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

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

27. The Appellant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2013 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

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28. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card No. ARE 1170398 (Annexure-A), which has been issued on 29.03.2016, much after the cutoff date of 01.01.2015. The Appellant/Claimant has also tendered the Voter list of the year 2013 (Annexure-J) in which her name appears at Sl. No. 606 and the Voter list of the year 2019 (Annexure-K) in which his name appears at Sl. No. 650 and the number of her Voter ID Card has been mentioned to be bearing number ARE 1170398. It shows that the original Voter ID Card No. ARE 1170398 must have been issued much earlier to 29.03.2016 as it has been reflected in the Voter list of the year 2013 (Annexure-J) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 29.03.2016 but the original was in existence even in the year 2013 and that is why it has been reflected in the Voter List of the year 2013 (Annexure-J) and also in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2013) & also in the year of survey.

29. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-119 regarding which she is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-119 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The Appellant/Claimant has tendered the Voter ID Card No. CXY1078799 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Sanjay as well as the Electricity Bill (Annexure-G) and Passbooks of SBI (Annexure-H & Annexure-I).

31. It is pointed out that the Voter ID Card No. CXY1078799 (Annexure-D) has been issued on 08.03.2002. The Electricity Bill (Annexure-I) shows that the connection has been taken by the Appellant/Claimant on 09.02.2017, much after the cut off date of 01.01.2015. The Passbook (Annexure-H) shows that the account has been opened by the Appellant/Claimant on 15.01.2019, much after the cut off date of 01.01.2015. The

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Passbook (Annexure-I) shows that the account has been opened by her husband on 25.08.2017, 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 her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-119 regarding which she is claiming allotment from DDA. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-119 regarding which she is claiming allotment from DDA. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2013 and also in the year of survey.

33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/13.1/929 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 559 of 2023

Date of Institution: 06.12.2022

Date of Order: 04.07.2023

Present: Appellant/ Claimant Pramod Mandal S/o Kalipad Mandal

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

ORDER

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

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

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Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/16.1/930 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 559 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 04.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-122 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

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7. The statement of the Appellant/Claimant, Pramod Mandal, has been recorded before us on 04.05.2023 wherein he has stated that his parents, Kalipad Madal & Tara, are having four sons, Subodh, Sanjay, Pramod & Jai and one daughter Mithu. Kalipad has expired in the year 2015. All the children are married. Mithu is living in her matrimonial home in Tughalaqabad, Delhi. Subodh is married with Archana and having two children, Ashish & Monika. Sanjay is married with Aruna and having one daughter Sneha. Jai is married with Alka and having one son Dhiman. Pramod Mandal (Appellant/Claimant) is married with Sukeshi and having two sons; Sagar & Aditya.

8. The Appellant/Claimant has stated that his family is having two Jhuggis bearing No. C-119 & C-122 in Bhoomiheen Camp and both the Jhuggis are located nearby. Both the Jhuggis are double storey structure and having one room on each floor. Jhuggi No. C-119 is having an iron ladder placed in the gali for going to the first floor whereas Jhuggi No. C-122 is having a pucca staircase constructed in the gali for going to the first floor.

Jhuggi No. C-119

9. The Appellant/Claimant has stated that Subodh along with his wife Archana and children is living on the ground floor of Jhuggi No. C-119 and regarding that DDA has made allotment in favour of Archana. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Sanjay along with his wife Aruna and daughter Sneha is living on the first floor of Jhuggi No. C-119 but the claim of Aruna seeking allotment against the first floor of Jhuggi No. C-119 has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the Appeal No. 537 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Jhuggi No. C-122

11. The Appellant/Claimant has stated that his mother Tara along with the family of her son Jai is living on the ground floor of Jhuggi No. C-122 and regarding that DDA has made allotment in favour of his mother Tara. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with my wife Sukeshi and both the children, is living on the first floor of the Jhuggi No. C-122 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 559 of 2023 before the Appellate Authority for redressal. The

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Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in his favour.

13. It is pointed out that both the appeals bearing Appeal No. 537 of 2023 and Appeal No. 559 of 2023 shall be decided separately on their individual merit.

Videos of Jhuggi No. C-119

14. DDA has furnished the survey record along with 3 video clips pertaining to Jhuggi No. C-119. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.05.2023 wherein he has stated that two videos pertain to the ground floor of the Jhuggi No. C-119 in which Archana is seen and her room & kitchen are also seen. In the other one video clip, Aruna W/o Sanjay is seen on the first floor of Jhuggi No. C-119 and her room & kitchen are also seen. Further, an iron ladder going from the ground floor to the first floor is also seen.

Videos of Jhuggi No. C-122

15. DDA has furnished the survey record along with 2 video clips pertaining to Jhuggi No. C-122. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.05.2023 wherein he has stated that in one video clip his mother Tara Mandal is seen on the ground floor of the Jhuggi No. C-122 and her room & kitchen are also seen. In the other one video, Sukeshi W/o Appellant/Claimant Pramod is seen on the first floor of the Jhuggi No. C-122 and his room is also seen.

16. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-119 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and Aruna W/o Sanjay (Appellant/Claimant of Appeal No. 537 of 2023) along with her family was using the first floor of the said Jhuggi for residential purposes. Furthermore, the statement of the Appellant/Claimant as well as the survey records/video clips has also duly proved that a double storey Jhuggi No. C-122 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and he (Pramod-Appellant/Claimant of Appeal No. 559 of 2023) along with his family was using the first floor of the said Jhuggi for residential purposes.

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17. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-122 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

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

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

20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/16.1/930 dated 07.11.2022.

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

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"Part-B

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

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

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

- Passport.
- Ration Card with photograph.

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

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

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

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

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

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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."

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

GIST OF THE POLICY

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

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

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27. The Appellant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2013 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

28. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B) and both are bearing the same number i.e. CXY 1078252. The first Voter ID Card (Annexure-A) has been issued on 08.03.2002 and the second Voter ID Card (Annexure-B) has been issued on 21.07.2015. The name of the Appellant/Claimant is mentioned at Sl. No. 570 in the Voter List of the year 2013 (Annexure-K) and at Sl. No. 665 in the Voter List of the year 2019 (Annexure-L). In both the Voters Lists (Annexure K & Annexure-L), the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be CXY 1078252. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2013 and also in the year of survey.

29. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-122 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-J) which has been issued in the name of his father Kalipad Mandal on 01.06.2007 in which the name of the Appellant/Claimant has been mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-122 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1170380 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of his wife Sukeshi as well as Caste Certificate (Annexure-H), Electricity Bill (Annexure-I) and Passbook of PNB (Annexure-M).

31. It is pointed out that the Voter ID Card No. ARE 1170380 (Annexure-E) has been issued on 27.10.2008. The Electricity Bill (Annexure-I) shows that the connection has been taken by

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the Appellant/Claimant on 09.02.2017, much after the cut off date of 01.01.2015. The Passbook (Annexure-N) shows that the account has been opened by the Appellant/Claimant on 11.11.2003. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-122 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-122 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2013 and also in the year of survey.

33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/16.1/930 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 349 of 2023

Date of Institution: 28.11.2022

Date of Order: 05.07.2023

Present: Appellant/ Claimant Pratibha Chakrbartty W/o Partha Chakrabartty

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-109, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-109 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/16.1/1608 dated 07.11.2022 to

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the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 349 of 2023 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 03.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-R, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-109 was found to exist on the ground floor but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee (EDC) has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal No. 349 of 2023.

7. It is pointed out at the very outset that the material placed on file as well as the survey records furnished by DDA shows that the Jhuggi No. B-109, Bhoomiheen Camp of the Appellant/Claimant was found to exist on the ground floor and all the requisite documents, except Voter ID Card, were found and accordingly her claim was rejected on the sole ground that her voter ID card was not found to have been verified.

8. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 whether she is entitled to claim allotment against Jhuggi bearing No. B-109 as per the policy guidelines issued by DDA.

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9. The statement of the Appellant/Claimant, Pratibha Chakrabartty, has been recorded before us on 03.05.2023 wherein she has stated that her parents, Jayant & Pushpa, are having two daughters, Pratima & Pratibha. Both the daughters are married. Pratima is married with Anup and she is having two children and she is living in her matrimonial home in West Bengal. Pratibha (Appellant/Claimant) is married with Partha and having two children, Parthik & Avi. Parthik is a handicapped child and she along with her family has been living with her parents in Bhoomiheen Camp.

10. The Appellant/Claimant has stated that her parents, Jayant & Pushpa, are having a double storey Jhuggi No. B-109, Bhoomiheen Camp and it is having a pucca staircase constructed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that her parents, Jayant & Pushpa are living on the first floor of Jhuggi No. B-109 and regarding that DDA has made allotment in favour of her father Jayant. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Partha and both the children, Parthik & Avi is living on the ground floor of the said Jhuggi No. B-109. The Appellant/Claimant has sought allotment from DDA against the ground floor of the said Jhuggi No. B-109 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 349 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-R, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey record along with six video clips pertaining to the Jhuggi No. B-109. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.05.2023 wherein she has stated that in three video clips she (Appellant/Claimant-Pratibha) along with her children and husband is seen on the ground floor of the Jhuggi No. B-109 and further, her room & kitchen are also seen. In the other three video clips, her father Jayant is seen on the first floor of the Jhuggi No. B-109 and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the Jhuggi of the Appellant/Claimant is a double storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the ground floor is used by the Appellant/Claimant & her family for residential purposes.

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13. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-109 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/Claimant & her family has been using it for residential purposes.

14. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the said Jhuggi bearing No. B-109 as per the policy guidelines issued by DDA.

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

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

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

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

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

<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."

17. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear

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

18. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the Jhuggi bearing No. B-109 as per the policy guidelines issued by DDA.

19. The Appellant/Claimant has stated that she was having Voter ID Card No. CXY 1069301 and it was used by her to cast from 2012 to 2015. But in that Voter ID Card No. CXY 1069301 the name of her father was mentioned and accordingly she had surrendered the same to get the name of her husband mentioned in that document. Consequently, fresh Voter ID Card No. SBC 2378361 (Annexure-A) was issued in her favour on 19.03.2019.

20. The Appellant/Claimant has tendered her Voter ID Card No. SBC 2378361 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O), Voter List of the year 2019 (Annexure-P), Voter Slip dated 26.09.2022 (Annexure-Q) and Voter Slip dated 22.11.2022 (Annexure-R).

21. It is pointed out that the Voter ID Card No. SBC 2378361 (Annexure-A) has been issued on 19.03.2019, much after the cut off date of 01.01.2015. The Appellant/Claimant has also tendered Voter Slip dated 22.11.2022 (Annexure-R), in which the name of the Appellant/Claimant is reflected to be bearing No. SBC 2378361.

22. It is pertinent to point out that the name of the Appellant/Claimant appears at Sl. No. 349 in the Voter List of the year 2012 (Annexure-L), at Sl. No. 349 in the Voter List of the year 2013 (Annexure-M), at Sl. No. 280 in the Voter List of the year 2014

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(Annexure-N), at Sl. No. 285 in the Voter List of the year 2015 (Annexure-O) and at Sl. No. 284 in the Voter List of the year 2019 (Annexure-P). It is pointed out that the number of the Voter ID Card of the Appellant/Claimant is mentioned to be CXY 1069301 in the Voter Lists, Annexure- L to Annexure-P, and her address is mentioned to be Jhuggi No. B-109 regarding which she is claiming allotment from DDA. Here it is also pertinent to point out that the Appellant/Claimant has also tendered the Voter Slip dated 26.09.2022 (Annexure-Q) in which the name of the Appellant/Claimant is recorded and her Voter ID Card is reflected to be bearing No. CXY 1069301. This shows that the Appellant/Claimant has used her Voter ID Card No. CXY 1069301 to cast her vote from the year 2012 to 2022 and the same is duly reflected in the Voter Lists of the years 2012 to 2019 (Annexure-L to Annexure-P) and also in the Voter Slip dated 26.09.2022 (Annexure-Q).

23. It is also pointed out that in the Voter Lists, Annexure- L to Annexure-P, and in the Voter Slip dated 26.09.2022 (Annexure-Q) the number of the Voter ID Card is reflected to be bearing No. CXY 1069301 and further the name of her father is mentioned as "Pratibha Chakrbartty D/o Jayant Kumar". The Appellant/Claimant has not placed on file the copy of this Voter ID Card No. CXY 1069301 because the original was surrendered to get the name of her husband mentioned in place of the name of her father. New Voter ID Card No. SBC 2378361 (Annexure-A) was issued by the Election Commission on 19.03.2019 in which the name of the Appellant/Claimant is mentioned as "Pratibha Chakrbartty W/o Partha Chakrabartty". Further, in the Voter Slip dated 22.11.2022 (Annexure-R), the number of the Voter ID Card of the Appellant/Claimant is reflected to be bearing No. SBC 2378361 and her name is mentioned to be "Pratibha Chakrbartty W/o Partha Chakrabartty".

24. There is no doubt that the proper course available to the Appellant/Claimant was to get the entries modified in the Voter ID Card No. CXY 1069301by substituting the name of her father (Jayant Kumar) by the name of her husband (Partha Chakrabartty) but it seems that she was ill advised to surrender the Voter ID Card No. CXY 1069301 and get the new Voter ID Card No. SBC 2378361 (Annexure-A) issued on 19.03.2019 and accordingly not following the correct procedure of getting the entries corrected is of no consequence. Hence, merely not placing the old Voter ID Card No. CXY 1069301 on file and further surrendering the old Voter ID Card No. SBC 2378361 (Annexure-A) issued on 19.03.2019 does not forfeit the right

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which has already accrued to the Appellant/Claimant as the material placed on file shows that she was having Voter ID Card No. CXY 1069301 on the cutoff date of 01.01.2015 and further this Voter ID Card has been used to cast vote from 2012 to 2019 as has been reflected in the Voter List of the year 2012 (Annexure-L), Voter List of the year 2013 (Annexure-M), Voter List of the year 2014 (Annexure-N), Voter List of the year 2015 (Annexure-O), Voter List of the year 2019 (Annexure-P).

25. This corroborates the statement of the Appellant/Claimant that prior to Voter ID Card No. SBC 2378361 (Annexure-A) she was having another Voter ID Card No. CXY 1069301 and it remained operative till 2019 and further she has used the Voter ID Card No. CXY 1069301 to continuously cast her vote from 2012 to 2019. In all the voter lists (Annexure-L to Annexure-P) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be bearing number CXY 1069301 and the address is mentioned to be Jhuggi No. B-109 regarding which the Appellant/Claimant has been claiming allotment from DDA.

26. Thus we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card number CXY 1069301 on the cut off date of 01.01.2015 and further her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. This shows that the Appellant/Claimant is having requisite documents and accordingly she fulfills the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/Claimant has also tendered the Voter ID Card No. CBC 2343794 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F), Driving License (Annexure-G) & Passport (Annexure-H) of her husband Partha Chakrabartty as well as her Passbook of PNB (Annexure-K).

28. It is pointed out that the Voter ID Card No. CBC 2343794 (Annexure-D) has been issued on 10.04.2019. The Driving License (Annexure-G) of her husband Partha Chakrabartty has been issued on 31.03.2000 whereas the Passport (Annexure-H) has been issued on 04.03.2020. The Passbook of PNB (Annexure-K) of the Appellant/Claimant shows that the account has been opened by the Appellant/Claimant on 21.12.2021. Further, it is pointed out that the abovementioned documents have been issued on the address of Jhuggi No. B-109 regarding which the Appellant/Claimant has been claiming allotment from DDA thereby showing that the Appellant/Claimant & her family members have

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been living there since long and especially much prior to the cutoff date of 01.01.2015 in the Jhuggi No. B-109 regarding which the present Appellant/Claimant has claimed allotment from DDA. This further shows that the Appellant/Claimant is having requisite documents and accordingly she fulfills the eligibility criteria as per the guidelines issued by DDA.

29. We have already pointed out that the material placed on file has proved that the Appellant/Claimant is having required document, Voter ID Card, and her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Now it has to be seen whether the Appellant/Claimant is also having a separate Ration Card.

30. The Appellant/Claimant has tendered her two Ration Cards (Annexure-I & Annexure-J). The first Ration Card (Annexure-I) has been issued in the name of her father Jayant Kumar on 11.08.2010 on the address of Jhuggi No. B-109. The second Ration Card (Annexure-J) bearing No. APL 35280016 has been issued in favour of the Appellant/Claimant on 31.03.2014, much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. B-109 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a separate ration card in her name on the cutoff date of 01.01.2015 on the address of Jhuggi No. B-109 regarding which the Appellant/Claimant has claimed allotment from DDA. This material placed on file shows that the Appellant/Claimant along with her family has been living since very long, and specifically on the cut off date of 01.01.2015, in Jhuggi No. B-109. In the light of our detailed discussion above, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents, including Voter ID card & a separate Ration Card, on the cutoff date of 01.01.2015 and further her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she fulfills the eligibility criteria as per the guidelines issued by DDA.

31. Hence, we have no hesitation in holding that the Appellant/Claimant & her family has been using the ground floor of the Jhuggi No. B-109 for residential purposes on the cutoff date of 01.01.2015 and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & a separate Ration Card, on the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2012, 2013,

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2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

32. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present Appeal No. 349 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/7/16.1/1608 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/ Claimant Pratibha Chakrbartty W/o Partha Chakrabartty, in respect of the Jhuggi No. B-109, Bhoomiheen Camp.

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

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

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

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

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

Appeal No: 479 of 2023

Date of Institution: 30.11.2022

Date of Order: 05.07.2023

Present: Appellant/Claimant Kanhaiya S/o Suresh Bhagat

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-626, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-626 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/14/39.2/741 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 479 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 24.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-626 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Kanhaiya, has been recorded before us on 24.05.2023 wherein he has stated that his parents, Suresh & Vidya, are having two

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sons; Kanhaiya & Krishan and one daughter Mamta. All the children are married. Mamta is married with Mukesh and she is living in her matrimonial home in Baliya, Uttar Pradesh. Krishan is married with Kamla and having three children; Ankita, Hansika & Ansh. Kanhaiya (Appellant/Claimant) is married with Neha and having three children; Om, Aradhya & Aradhna.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. C-627 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor and further an iron ladder is placed on the first floor for going to the second floor.

9. The Appellant/Claimant has stated that his parents, Suresh & Vidya, are living on the ground floor of the Jhuggi bearing No. C-627 and regarding that DDA has made allotment in favour of his mother Vidya. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Krishan along with his wife Kamla and children is living on the first floor, which is also bearing the Jhuggi No. C-627 and Krishan has sought allotment from DDA against the first floor of the Jhuggi No. C-627 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 506 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Neha and children is living on the second floor of his Jhuggi, which is bearing No. C-627. The Appellant/Claimant has sought allotment from the DDA against the second floor of the Jhuggi No. C-627 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 479 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, and prayed that DDA be directed to make allotment in his favour.

12. It is pertinent to point out that both the Appeals bearing Appeal No. 479 of 2023 & 506 of 2023 shall be decided separately on their respective merits.

13. DDA has furnished the survey record along with six video clips pertaining to the Jhuggi No. C-627. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.05.2023 wherein he has stated that in the two videos his mother Vidya is seen on the ground floor of the Jhuggi No. C-627 and further

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her room & kitchen are seen. In the two other videos, a pucca staircase going from the ground floor to the first floor is seen and further Krishan is seen and his room & kitchen are also seen. Further, the Appellant/Claimant has stated that in the remaining two videos he (Kanhaiya-Appellant/Claimant) is seen on the second floor and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. C-627 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. C-627 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

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

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015 as he is having a joint Ration Card issued in the name of his mother Vidya Devi. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/14/39.2/741 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

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

22. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been

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used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

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

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

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

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

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

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore,

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

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

GIST OF THE POLICY

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

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

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

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policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

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

30. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1519536 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2013 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

31. It is pointed out that the Voter ID Card No. ARE 1519536 (Annexure-A) has been issued on 06.01.2012, much prior to the cut off date of 01.01.2015. His name appears at Sl. No. 778 in the Voter List of the year 2013 (Annexure-L) and at Sl. No. 824 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2013 & also in the year of survey.

32. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the second floor of the said Jhuggi No. C-627 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his two joint Ration Cards (Annexure-J & Annexure-K). The Appellant/Claimant has tendered old Ration Card (Annexure-J) issued in the name of his father Suresh Bhagat on 15.03.2005 and the name of the Appellant/Claimant has also been mentioned. The new Ration Card (Annexure-K) has been issued in the name of his mother Vidya Devi and the name of the Appellant/Claimant has also been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of

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the Jhuggi No. C-627 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2286961 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Neha Devi as well as Aadhar Card of his children Aradhya & Om (Annexure-G & Annexure-H respectively) and Electricity Bill (Annexure-I).

34. It is pointed out that the Voter ID Card No. ARE 2286961 (Annexure-D) has been issued on 26.08.2019, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-I) shows that the electricity connection has been taken in the name of his uncle Ramesh Kumar S/o Om Chand on 31.05.2008 thereby showing that the Appellant/Claimant has not taken electricity connection on the second floor of Jhuggi No. C-627 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-627 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/14/39.2/741 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 491 of 2023

Date of Institution: 01.12.2022

Date of Order: 05.07.2023

Present: Appellant/ Claimant Babloo Das (since deceased) S/o Hari Das through his legal heir, Madhvi (wife)

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

ORDER

1. This order disposes off the present appeal filed by the Appellant/ Claimant Babloo Das (since deceased) S/o Hari Das through his legal heir, Madhvi (wife) against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant Babloo Das (since deceased) had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-427, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-427 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/64.1/1021 dated 07.11.2022 to the legal heirs of the present Appellant/ Claimant, who has since died on 09.03.2021. Aggrieved by the same, the present Appeal No. 491 of 2023 has been filed by his legal heir, Madhvi (wife).

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3. In response to the notice, Madhvi, legal heir of the present Appellant/ Claimant, Babloo Das (since deceased) S/o Hari Das has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of Madhvi has been recorded before us on 25.05.2023 and she has tendered documents, Annexure- A to Annexure- L, in support of the claim of the present Appellant/ Claimant, Babloo Das (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Madhvi, legal heir of the present Appellant/ Claimant, Babloo Das (since deceased) as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-427 was found to exist on the upper 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 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the present appeal has been filed before us by the Appellant/ Claimant, Bablu Das (since deceased) through his legal heir, Madhvi (wife) against order dated 07.11.2022 passed by the Eligibility Determination Committee.

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

7. The Appellant/Claimant Babloo Das (since deceased) has submitted a representation to DDA for seeking alternate allotment against Jhuggi No. C-427 but he had died on 09.03.2021 and his death certificate is Annexure-G and after his death his claim was presented before the Eligibility Determination Committee but the same was rejected and the rejection order was conveyed by the Nodal Officer to his legal heir, Madhvi (wife of the Appellant/Claimant Babloo Das). The present Appeal has been filed by Madhvi in the capacity of the legal heir of her husband Babloo Das (Appellant/Claimant) and her statement has been recorded before us on 25.05.2023.

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8. Madhvi W/o Babloo Das has stated that her in-laws, Hari & Basanti, are having one son Babloo Das and three daughters, Laxmi, Beena & Sheela. Hari had expired about 15 years ago. All the children are married. Laxmi is married with Netai, Beena is married with Montu and Sheela is married with Pardip. Lakshmi and Reena are living in their respective matrimonial homes and allotments from their matrimonial side have also been made in their favour by DDA. Pardip had died. After the death of her husband Pradeep, his wife Sheela is now living with her parents in Bhoomiheen Camp. Babloo Das (Appellant/Claimant) is married with Madhavi and having two sons Tushar and Shruti. Babloo Das (Appellant/Claimant) has died on 09.03.2021 and his Death Certificate is Annexure-G.

9. Madhvi has stated that her in-laws are having a double storey Jhuggi No. C-427 and it comprises of one room on each floor and there is a pucca staircase constructed outside in the gali for going to the first floor. Her mother-in-law, Basanti, along with the family of Sheela is living on the ground floor of the said Jhuggi No. C-427 and regarding that DDA has made allotment in favour of her mother-in-law, Basanti. These facts are not disputed by DDA.

10. Madhvi has stated that she along with her husband Babloo Das (up till his death on 09.03.2021) and both the children has been living on the first floor of the said Jhuggi No. C-427 and regarding that her husband Babloo Das had sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, Babloo Das (since deceased) through his legal heir, Madhvi (wife) has filed the present Appeal No. 491 of 2023 before the Appellate Authority for redressal. Madhvi has tendered documents, Annexure- A to Annexure- L, in support of the claim of the present Appellant/ Claimant, Babloo Das (since deceased) and prayed that allotment be made in favour of the Appellant/Claimant Babloo Das (since deceased).

11. DDA has furnished the survey record along with two video clips. The video clips were played before Madhvi W/o Appellant/Claimant Babloo Das (since deceased) when her statement was recorded before us on 25.05.2023 wherein she has stated that in the first video her mother-in-law, Basanti, is seen on the ground floor and her room & kitchen are seen. In the second video, Madhavi is seen on the first floor and her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-427 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/ Claimant, Babloo Das (since deceased) was using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. C-427 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of

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01.01.2015 and further, the Appellant/ Claimant, Babloo Das (since deceased) has been using the first floor of the said Jhuggi No. C-427 for residential purposes.

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

14. Madhvi has stated that the claim of Appellant/Claimant Bablu (since deceased) has been wrongly rejected by DDA. She has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in favour of Appellant/Claimant Bablu (since deceased).

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/64.1/1021 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

22. Madhvi widow of Babloo Das (Appellant/Claimant) has tendered the Voter ID Card No. ARE 1185826 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband

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Babloo Das (since deceased) and Voter List of the year 2012 (Annexure-K) & Voter List of the year 2019 (Annexure-L).

23. It is pointed out that the Vote ID Card No. ARE 1185826 (Annexure-D) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant Babloo Das (since deceased) also appears at Sl. No. 555 in the Voter List of the year 2012 (Annexure-K) and at Sl. No. 549 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant Babloo Das (since deceased) was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 & also in the year of survey.

24. Madhvi has admitted that her husband Babloo Das, Appellant/Claimant, was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-427 regarding which he is claiming allotment from DDA. Madhvi has tendered the Ration Card (Annexure-J), which has been issued on 02.12.2011 in the name of his mother, Basanti and the name of the Appellant/Claimant is also mentioned. The fact remains that the Appellant/Claimant Bablu (since deceased) was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-427 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant Bablu (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. Madhvi has also tendered her Voter ID Card No. ARE 1185834 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) as well as Passbook of PNB (Annexure-H) and the Electricity Bill (Annexure-I).

26. It is pointed out that the Voter ID Card No. ARE 1185834 (Annexure-A) has been issued on 27.10.2008. The Passbook of PNB shows that Madhvi had opened the account on 07.11.2014. The Electricity Bill (Annexure-I) shows that the connection has been taken by his mother Basanti on 29.05.2008 on the address of ground floor of the Jhuggi No. C-427 thereby showing that the Appellant/Claimant Babloo Das (since deceased) was not having an electricity connection on the first floor of the Jhuggi No. C-427 regarding which he is seeking 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 favour of the Appellant/Claimant Babloo Das (since deceased) to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from

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DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/Claimant Babloo Das (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

Accordingly, we have no hesitation in holding that the Appellant/ Claimant Babloo (since deceased) was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 and also in the year of survey. Therefore, Appellant/Claimant Babloo (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The Appellant/Claimant Bablu (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 No. 385/37/64.1/1021 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 5/7/2023	**(Satish Ahlawat)** 5/7/2023	**(Rachna Tiwary)** 5/7/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 506 of 2023

Date of Institution: 02.12.2022

Date of Order: 05.07.2023

Present: Appellant/Claimant Krishan S/o Suresh Bhagat

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-626, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-626 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/14/39.1/740 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 506 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 24.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-626 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Krishan, has been recorded before us on 24.05.2023 wherein he has stated that his parents, Suresh & Vidya, are having two

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sons; Kanhaiya & Krishan and one daughter Mamta. All the children are married. Mamta is married with Mukesh and she is living in her matrimonial home in Baliya, Uttar Pradesh. Kanhaiya is married with Neha and having three children; Om, Aradhya & Aradhna. Krishan (Appellant/Claimant) is married with Kamla and having three children; Ankita, Hansika & Ansh.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi bearing No. C-627 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor and further an iron ladder is placed on the first floor for going to the second floor.

9. The Appellant/Claimant has stated that his parents, Suresh & Vidya, are living on the ground floor of the Jhuggi bearing No. C-627 and regarding that DDA has made allotment in favour of his mother Vidya. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Kanhaiya along with his wife Neha and children is living on the second floor, which is also bearing the Jhuggi No. C-627 and he has sought allotment from DDA against the second floor of the Jhuggi No. C-627 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 479 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Kamla and children; Ankita, Hansika & Ansh is living on the first floor of his Jhuggi, which is bearing No. C-627. The Appellant/Claimant has sought allotment from the DDA against the first floor of the Jhuggi No. C-627 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 506 of 2023 for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in his favour.

12. It is pertinent to point out that both the Appeals bearing Appeal No. 479 of 2023 & 506 of 2023 shall be decided separately on their respective merits.

13. DDA has furnished the survey record along with six video clips pertaining to the Jhuggi No. C-627. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.05.2023 wherein he has stated that in the two videos his mother Vidya is seen on the ground floor of the Jhuggi No. C-627 and further

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her room & kitchen are seen. In the two other videos, a pucca staircase going from the ground floor to the first floor is seen and further he (Krishan-Appellant/Claimant) is seen and his room & kitchen are also seen. Further, the Appellant/Claimant has stated that in the remaining two videos Kanhaiya is seen on the second floor and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. C-627 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. C-627 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

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

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

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Accordingly, there is no illegality in the impugned rejection order bearing No. 385/14/39.1/740 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

24. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1519544 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-J) & Voter List of the year 2019 (Annexure-K).

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25. It is pointed out that the Voter ID Card No. ARE 1519544 (Annexure-A) has been issued on 06.01.2012, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 754 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 826 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

26. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. C-627 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-I), which has been issued in the name of his mother, Vidya Devi, and the name of the Appellant/Claimant has also been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-627 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has also tendered the Voter ID Card No. ARE 1975779 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Kamla and the Electricity Bill (Annexure-G) & Passbook of Bank of India (Annexure-H).

28. It is pointed out that the Voter ID Card No. ARE 195779 (Annexure-D) has been issued on 11.09.2014, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken by his father Suresh Bhagat on 21.07.2008 on the ground floor of Jhuggi No. C-627 thereby showing that the Appellant/Claimant is not having electricity connection on the first floor of the Jhuggi No. C-627 regarding which he is claiming allotment from DDA. The Passbook of Bank of India (Annexure-H) shows that the account has been opened by the Appellant/Claimant on 27.08.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment

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

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

30. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/14/39.1/740 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 447 of 2023

Date of Institution: 29.11.2022

Date of Order: 06.07.2023

Present: Appellant/ Claimant Doli W/o Akash

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-320, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-320 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/0/C-320 B h Camp/1699 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 447 of 2023 has been filed by the present Appellant/Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 26.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-320 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified //No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Doli, has been recorded before us on 26.05.2023 wherein she has stated that her in-laws, Lala Ram & Nirmal, are having four sons; Akash, Rohit, Sunny & Vikas and two daughters; Pooja & Riya. Rohit, Vikas and Ria are unmarried. Pooja is married with Dhirender and she is living in her matrimonial home in Kanpur, Uttar Pradesh. Sunnny is married with Anuradha. Akash is married with Doli (Appellant/Claimant) and having two children, Aditya & Devishi.

8. The Appellant/Claimant has stated that her in-laws, Lala Ram & Nirmal, are having a four storey Jhuggi No. C-320 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor. Her in-laws, Lala Ram & Nirmal, along with their unmarried children; Rohit, Vikas and Ria, are living on the ground & third floors of the said Jhuggi no. C-320 regarding that DDA has made allotment in favour of her mother-in-law, Nirmal. These facts are not disputed by DDA

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9. The Appellant/Claimant has stated that Sunny along with his wife Anuradha is living on the second floor of the Jhuggi No. C-320 and he has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee.

10. The Appellant/Claimant has stated that she along with her husband, Akash & both the children, Aditya & Devishi, is living on the first floor of the said Jhuggi No. C-320. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-320 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 447 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey record along with three video clips pertaining to the Jhuggi No. C-320. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 26.05.2023 wherein she has stated that in two video clips, her mother-in-law, Nirmal, is seen on the ground floor and her room & kitchen are seen. In the remaining one video clip, an iron ladder placed outside in the gali and going from the ground to the upper floor is seen and further, Akash, husband of the Appellant/Claimant, is seen in his Jhuggi on the first floor and further, their room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a four storey Jhuggi No.C-320 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the four storey Jhuggi No. C-320 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

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

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

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15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut- off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as she was not having a Valid Voter Card and a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/0/C-320 B h Camp/1699 dated 07.11.2022.

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

"Part-B

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

22. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2506202 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter Slips (Annexure-I & Annexure-J).

23. It is pointed out that the Voter ID Card No. ARE 2506202 (Annexure-A) of the Appellant/Claimant has been issued on 29.01.2020, much after the cut off date of 01.01.2015 and accordingly, the question of her name appearing in the Voter Lists of the year 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise at all. The Appellant/Claimant has tendered the Voter Slips of the year 2022 (Annexure-I & Annexure-J) thereby showing that the name of the Appellant/Claimant as well as of her husband has been reflected in the Voter Slip of the year 2022, much after the cutoff date of 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also

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

24. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-320 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-H) issued in the name of her mother-in-law, Nirmal, in which the name of her husband has been mentioned but that of the Appellant/Claimant is missing and further the date of issuance of the ration card is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-320 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has also tendered the Voter ID Card No. ARE 2506269 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Akash and Electricity Bill (Annexure-G).

26. It is pointed out that the Voter ID Card No. ARE 2506269 has been issued on 29.11.2020, much after the cut off date of 01.01.2015. This shows that neither the Appellant/Claimant nor her husband was having the Voter ID Cards on the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken on 30.05.2008 in the name of her father-in-law, Lala Ram, thereby showing that the Appellant/Claimant was not having connection on the address of first floor of Jhuggi No. C-320 regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cutoff date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card & separate Ration Card on the cut-off date of

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01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory documents, i.e., a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/0/C-320 B h Camp/1699 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 465 of 2023

Date of Institution: 30.11.2022

Date of Order: 06.07.2023

Present: Appellant/ Claimant Mohini Das D/o Manohar Das

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-27, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-27 was found to exist on the first floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/39.1/1178 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 465 of 2023 has been filed by the present Appellant/Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 26.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No.C-27 was found to exist on the first floor but she had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Mohini Das, has been recorded before us on 26.05.2023 wherein she has stated that her parents, Manohar Das & Bilasi, are having one son; Sapan and four daughters; Mohini, Reena, Sushma & Dolly. Manohar Das had died on 09.09.2013 and his Death Certificate is "Annexure-E". Bilasi had expired on 28.12.2018 and her Death Certificate is "Annexure-G". All the children except Sapan are married. Sushma is married with Saimal and she is living in her matrimonial home in R.K. Puram. Reena is married with Deen Bandhu and Dolly is married with Nanku and both of them are living in their respective matrimonial homes in Bhoomiheen Camp. Mohini (Appellant/Claimant) is married with Oum Kumar and having two children, Shubham & Kashish.

8. The Appellant/Claimant has stated that her parents were having a triple storey Jhuggi No. C-27 and it comprises of one room on each floor and there is a pucca staircase outside in the gali for going to the upper floor. The Appellant/Claimant has stated that her parents, Manohar Das & Bilasi, up to their death along with Sapan were living on the ground floor of the said Jhuggi No. C-27 and regarding that DDA has made allotment in favour of her brother Sapan. These facts are not disputed by DDA.

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9. The Appellant/Claimant has stated that she along with her husband Oum Kumar and both the children is living on the first floor of the said Jhuggi No. C-27 whereas the second floor is used as kitchen. The Appellant/Claimant has sought allotment from DDA against the said first & second floor of the said Jhuggi No. C-27 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 465 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered her documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey record along with four video clips pertaining to the Jhuggi No. C-27. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 26.05.2023 wherein she has stated that in one video clip, her brother Sapan is seen on the ground floor of the said Jhuggi No. C-27 and his room & kitchen is also seen. In the next two videos, the Appellant/Claimant, Mohini Das, is seen in her room on the first floor and in the next one video clip, her kitchen on the second floor is seen and further, a pucca staircase going from the first floor to the second floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. C-27 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first & second floors of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. C-27 in Bhoomiheen Camp is a pucca triple storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant has been using the first & second floors of the said Jhuggi No. C-27 for residential purposes.

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

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

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

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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 cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/39.1/1178 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

21. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1167267 (Annexure-A), Aadhar Card (Annexure-B), Voter Lists of the year 2013 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

22. It is pointed out that the Voter ID Card No. ARE 1167267 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 231 in the Voter List of the year 2013 (Annexure-H) and at Sl. No. 306 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and her name also appears in the voter list of the years 2013 & also in the year of survey.

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23. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 on the address of first floor of the Jhuggi No. C-27. She has tendered the Ration Card (Annexure-F) issued in the name of her mother Bilasi Devi and the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of the first floor of Jhuggi bearing No. C-27 regarding which She is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has also tendered the Passbook of Allahabad Bank (Annexure-C) and Electricity Bill (Annexure-D).

25. It is pointed out that the Passbook of Allahabad Bank (Annexure-C) shows that the account was opened by the Appellant/Claimant on 14.08.2010. The Electricity Bill (Annexure-D) shows that the connection has been taken by her mother Bilasi on 06.06.2008 on the ground floor of the Jhuggi No. C-27 thereby showing that the Appellant/Claimant was not having a separate Electricity connection on the first floor of the said Jhuggi No. C-27 regarding which she is claiming allotment from DDA. It is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above she was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she has claimed allotment against the first floor of Jhuggi No. C-27. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-27 regarding which she has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/39.1/1178

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dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 522 of 2023

Date of Institution: 02.12.2022

Date of Order: 06.07.2023

Present: Appellant/ Claimant Raj Kumar S/o Gopi Chand

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No.C-66, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-66 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/10.1/1201 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 522 of 2023 has been filed by the present Appellant/Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 25.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-66 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified//No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Raj Kumar, has been recorded before us on 25.05.2023 wherein he has stated that his parents, Gopi Ram & Somvati Devi, are having four sons, Deepak, Viresh, Mukesh & Raj Kumar and two daughters; Rekha & Kapoori. All the children are married. Rekha and Kapoori are living in their respective matrimonial homes in Delhi and Uttar Pradesh. Deepak is married with Poonam and having one daughter. Viresh is married with Poonam and having two children. Mukesh is married with Mamta and having three children and he is living on rent in Govindpuri, Delhi. Raj Kumar (Appellant/Claimant) is married with Saroj and having two children, Ravi & Jeetu.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-66 and it comprises of one room on each floor and a pucca staircase has been constructed inside in the gali for going to the first floor. His parents, Gopi ram & Somvati Devi, along with the family of Deepak & Viresh are living on the ground floor of the said Jhuggi No. C-66 and regarding that DDA had made allotment in favour of his father Gopi Ram. These facts are not disputed by DDA.

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9. The Appellant/Claimant has stated that he along with his wife Saroj and both the children is living on the first floor of the said Jhuggi No. C-66. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-66 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 522 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey record along with three video clips pertaining to the Jhuggi No. C-66. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 25.05.2023 wherein he has stated that in the one video clip, his parents, Gopi Ram & Somvati Devi, are seen on the ground floor of the Jhuggi No. C-66 and their room & kitchen are seen. In remaining two video clips, Raj Kumar (Appellant/Claimant) is seen on the first floor of the Jhuggi No. C-66 and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-66 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

11. Accordingly, we have no hesitation in holding that the Jhuggi No. C-66 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant has been using the first floor of the said Jhuggi No. C-66 for residential purposes.

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

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

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

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against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/6/10.1/1201 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

21. The Appellant/Claimant has tendered his Voter ID Card bearing No. SBC 0834713 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C).

22. It is pointed out that the Voter ID Card No. SBC 0834713 (Annexure-A) has been issued on 10.02.2022, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in the Voter Lists of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise at all. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-66 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the old Ration Card (Annexure-I), which has been issued on 05.08.2009 in favour of his father Gopi Ram and the name of the Appellant/Claimant has been mentioned therein. The Appellant/Claimant has also tendered the new Ration Card (Annexure-J) issued in favour of his mother Somvati Devi and the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not

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having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-66 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has also tendered the Voter ID Card No. SBC 0834739 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Saroj as well as the Electricity Bill (Annexure-G) and Passbook of Union Bank (Annexure-H).

25. It is pointed out that the Voter ID Card No. SBC 0834739 (Annexure-D) has been issued on 09.10.2009. This Voter ID Card No. SBC 0834739 (Annexure-D) and Aadhar Card (Annexure-E) have been issued on the address of Gali No. 16, House no. 693, Sangam Vihar and not on the address of Jhuggi No. C-66 regarding which the Appellant/Claimant is claiming allotment from DDA. Therefore, these documents are not relevant. The Electricity Bill Annexure-G) shows that the connection has been taken by the Appellant/Claimant on 07.01.2020, much after the cut off date of 01.01.2015. The Passbook of Union Bank of India (Annexure-H) shows that the account has been opened on 17.09.2014 by the Appellant/Claimant. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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

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

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There is no infirmity and illegality in the impugned order bearing No. 385/6/10.1/1201 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 557 of 2023

Date of Institution: 06.12.2022

Date of Order: 06.07.2023

Present: Appellant/ Claimant Badal Mistry S/o Bimal Mistry

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-155/1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-155/1, was found to exist on the first floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/86.1/862 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 557 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 29.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, support of his

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claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No.C-155/1 was found to exist on the first floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

8. The statement of the Appellant/Claimant, Badal Mistry, has been recorded before us on 29.05.2023 wherein he has stated that his parents, Bimal & Usha, are having one son, Badal and one daughter Pinki. Vimal had expired in the year 2001. Both the children are married. Pinki is married with Kedar Nath and having three children, Vijay, Pushkar & Sangeeta. Badal (Appellant/Claimant) is married with Geeta and having three children, Vivek, Vidur & Monika.

9. The Appellant/Claimant has stated that his parents, Bimal & Usha, are having a double storey Jhuggi No. C-155/1 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the first floor. The Appellant/Claimant has stated that his sister Pinki along with her family is living on the ground floor of the Jhuggi No. C-155/1 regarding which DDA has made allotment in favour of his sister Pinki. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Geeta and all the children, Vivek, Vidur & Monika, and his mother Usha Mistry is living on the first floor of the said Jhuggi No. C-155/1. The Appellant/Claimant has claimed allotment against the first floor of the Jhuggi No. C-155/1 from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 557 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has

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tendered his documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with two video clips pertaining to the Jhuggi No. C-155/1. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 29.05.2023 wherein he has stated that in one video clip, his sister Pinki is seen on the ground floor of the Jhuggi No. C-155/1 and her room & kitchen are also seen. In the other video clip, the Appellant/Claimant is seen on the first floor of his Jhuggi No. C-155/1 and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a four storey Jhuggi No. C-155/1 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the four storey Jhuggi No. C-155/1 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

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

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

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

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

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

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

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

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

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

17. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether 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 Jhuggi as per the policy guidelines issued by DDA.

18. The Appellant/Claimant has tendered his Voter ID Card bearing No. CXY 1536275 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

19. It is pointed out that the Voter ID Card No. CXY 1536275 (Annexure-A) has been issued on 08.12.2005, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 708 in the Voter List of the year 2012 (Annexure-G) and at Sl. No. 803 in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 & also in the year of survey.

20. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-155/1 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his old joint Ration Card (Annexure-E) issued in favour of his mother Usha Mistry on 26.02.2005 and the name of the Appellant/Claimant has also been mentioned. The Appellant/Claimant has also tendered a new joint Ration Card (Annexure-F) issued in favour of his mother Usha Mistry and the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. C-155/1 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

21. The Appellant/Claimant has tendered his Passbook of Syndicate Bank (Annexure-D) as well as the Voter ID Card No. ARE 1171313 (Annexure-I) & Aadhar Card (Annexure-J) of his mother Usha Mistry.

22. It is pointed out that the Passbook of Syndicate Bank shows that the account has been opened by the Appellant/Claimant on 10.12.2014. The Voter ID Card No. ARE 1171313 (Annexure-I) has been issued on 27.10.2008. It is pointed out that the above-mentioned

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documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-155/1 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-155/1 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 and also in the year of survey.

24. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/86.1/862 dated 07.11.2022 hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

6/7/2023

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

6/7/2023

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 104 of 2022

Date of Institution: 22.11.2022

Date of Order: 10.07.2023

Present: Appellant/ Claimant Meera Banik W/o Kanu Banik D/o Khagen Barman

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-152, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-152 was found to exist on the ground floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/083.G/860 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 104 of 2022 has been filed by the present Appellant/ Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 24.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-152 was found to exist on the ground floor but she had failed to submit required documents, i.e., separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

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7. The statement of Appellant/Claimant, Meera Banik, has been recorded before us on 24.04.2023 wherein she has stated that her parents, Khagen & Prem Bala, are having one son Parimal & one daughter Meera (Appellant/Claimant). Khagen has died in the year 2015. Both the children are married. Parimal is married with Anita and having two children; Keshu & Asim. Meera (Appellant/Claimant) is married with Kanu Banik and having two children Shweta & Shubham.

8. The Appellant/Claimant has stated that Parimal along with his wife Anita and children is living separately in Jhuggi No. C-154 and regarding that DDA has made allotment in favour of Anita W/o Parimal. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that her parents are having a double storey Jhuggi No. C-152 and her father Khagen used to run a grocery shop on the ground floor whereas the room on the first floor was used for residential purposes by her mother Prem Bala and also by her family. The Appellant/Claimant has stated that her mother Prem Bala was having all the requisite documents but because of her old age and love & affection, it was

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decided that instead of Prem Bala, the Appellant/Claimant should get the allotment from DDA against the first floor of the said Jhuggi No. C-152. In view of the family arrangement, the Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-152 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 104 of 2022 before the Appellate Authority. The Appellant/ Claimant has furnished documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in her favour.

10. DDA has furnished the survey records along with two video clips pertaining to Jhuggi No. C-152. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 24.04.2023 wherein she has stated that in one video clip, she (Meera-Appellant/Claimant) is seen in the shop on the ground floor of the Jhuggi No. C-152 holding a slate on which **"C-152/F G/Shop"** is written and wooden racks are seen in the shop. The second video pertains to the first floor of the Jhuggi No. C-152 in which she (Meera-Appellant/Claimant) and her mother Prem Bala is seen and their room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that on the cutoff date of 01.01.2015 her parents were having a double storey Jhuggi No. C-152 and her father Khagen Barman used to run a grocery shop on the ground floor whereas the room on the first floor was used for residential purposes by her mother Prem Bala and also by the family of the Appellant/Claimant. Thus both the floors of Jhuggi No. C-152 were part & parcel of the one dwelling unit.

11. Accordingly, we have no hesitation in holding that on the cutoff date of 01.01.2015 both the floors of Jhuggi No. C-152 were part & parcel of the one dwelling unit and her father Khagen Barman used to run a grocery shop on the ground floor up to his death in 2015 and the first floor of the said Jhuggi No. C-152 was used for residential purposes by Prem Bala and also by the family of the Appellant/Claimant.

12. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. C-152 as per the policy guidelines issued by DDA.

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

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

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.
> - Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
> - Passbook issued by public sector Bank/Post Office with photograph.
> - SC/ST/OBC certificates issued by Competent Authority with photograph.
> - Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
> - Freedom fighter identity card with photograph.
> - Certificate of physical handicapped with photograph issued by Competent Authority.

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- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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

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

17. The Appellant/Claimant has tendered her Voter ID Card No. DL/03/035/250006 (Annexure-A) and Aadhar Card (Annexure-B).

18. It is pointed out that the Voter ID Card No. DL/03/035/250006 (Annexure-A) has been issued on 16.03.1997, much prior to the cut off date of 01.01.1995. However, it is pointed out that this Voter ID Card is not verifiable and the Internet Search Report is Annexure-I to that effect. Furthermore, no Voter List has been placed on file by the Appellant/Claimant to show that she had used this Voter ID Card No. DL/03/035/250006 (Annexure-A) to cast her vote in any of the election and more particularly in the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. This shows that the Appellant/Claimant was not living with her parents in Jhuggi No. C-152 regarding which she has claimed allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered two Ration Cards, Annexure-F & Annexure-G. The old Ration Card (Annexure-F) has been issued on 30.03.2010 in the name of her father Khagen and the new Ration Card (Annexure-G) shows that it has been issued in the name

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of her mother Prem Bala but the date of issuance is not mentioned. However, it is pointed out that the name of the present Appellant/Claimant does not appear in any of the above-mentioned two Ration Cards (Annexure-F & Annexure-G). This again shows that the Appellant/Claimant was not living with her parents in Jhuggi No. C-152 regarding which she has claimed allotment from DDA.

20. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1171255 (Annexure-C) & Aadhar Card (Annexure-D) of her mother Prem Bala as well as the Passbook of PNB (Annexure-E) and Electricity Bill (Annexure-H).

21. It is pointed out that the Voter ID Card No. ARE 1171255 (Annexure-C) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015 but it is pertinent to point out that no Voter List has been placed on file to show that Prem Bala has ever her used this Voter ID Card to cast her vote in any of the elections and more particularly in the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The Passbook of PNB (Annexure-E) shows that the account was opened on 27.09.2018, much after the cut off date of 01.01.1995. The Electricity Bill (Annexure-H) shows that the connection was taken by her father Khagen on 09.03.2009. It is pointed out that the all the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

22. The material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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385/26/083.G/860 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 231 of 2022

Date of Institution: 23.11.2022

Date of Order: 10.07.2023

Present: Appellant/ Claimant G. Thangan W/o D. Govindan

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. R-35, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that She fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. R-35 was found to exist on the upper floor but She had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/70.G/1566 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 231 of 2023 has been filed by the present Appellant/Claimant.

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

4. The Appellant/Claimant has examined her husband D. Govindan and Uma Nath in support of her claim and their statements have been recorded before us on 22.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in

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support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. R-35 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of D. Govindan, who is the husband of the Appellant/Claimant G. Thangan, has been recorded before us on 22.03.2023 wherein he has stated that he was married with G. Thangan (Appellant/Claimant) and having one son G. Diwakar and one daughter G. Divia and they were living in a single storey Jhuggi No. R-35, which was situated on the main road in Bhoomiheen Camp. However, this Jhuggi was demolished in 2008 when "Katha –NGO" had constructed a urinal in its place. Therefore, the family of the Appellant/Claimant had shifted to the Jhuggi of one Uma Nath S/o Sri Ram and at that time, the Jhuggi of Uma Nath was single storey structure and it comprised of two rooms on the ground floor and was having roof made with asbestos sheet. However, in the year 2019 Uma Nath constructed double storey Jhuggi and it comprised of two rooms on the ground floor and two rooms on the first floor. One of the rooms on the ground floor was given Jhuggi No. C-200 and regarding that DDA has made allotment in favour of Urmila W/o Uma Sath. Whereas the second room on the ground floor was given Jhuggi No. C-200/1 and DDA has made allotment in favour of Sushma W/o Anand S/o Uma Nath.

8. D. Govindan has stated that he along with his wife D. Govindam (Appellant/Claimant) & both the children was living in first floor of Jhuggi No. C-200 and C-200/1 and his wife D. Govindan has sought allotment from DDA against that Jhuggi on the first floor but the

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claim of the Appellant/Claimant was rejected and aggrieved by the same, the present Appeal has been filed. D Govindan has tendered documents Annexure-A to Annexure-J in support of her claim and prayed that DDA be directed to make allotment in favour of his wife G. Thangan (Appellant/Claimant).

9. The Appellant/Claimant has also examined the Uma Nath S/o Sri Ram on 22.03.2023 wherein he has stated that he was married with Urmila and having one son Anand. Anand was married twice and name of his second wife is Sushma. Uma Nath has stated that he was having two Jhuggis bearing No. C-200 & C-200/1, Bhoomiheen Camp and initially the roof was made of asbestos sheet but he made the roof pucca in the year 2019. Uma Nath has stated that he along with his wife Urmila is living in the Jhuggi No. C-200 and DDA has made allotment in favour of his wife Urmila. Whereas his son Anand along with his wife Sushma is living in the second Jhuggi bearing Jhuggi No. C-200/1 and regarding that DDA has made allotment in favour of Sushma.

10. Uma Nath has also stated that G. Thangan was living in Jhuggi No. R-35, which was adjoining to public urinals. "Katha NGO" had demolished the Jhuggi No. R-35 in the year 2008 and constructed a new public urinal and on the request of "Katha NGO" he had allowed G Thangan to construct a Jhuggi on the first floor of his Jhuggi in the year 2019. G. Thangan had accordingly constructed a new Jhuggi on the first floor of the Jhuggi of Uma Nath at the insistence of "Katha NGO" and started living there. G. Thangan had claimed allotment from DDA against the said Jhuggi but the Eligibility Determination Committee has rejected her claim.

11. The statements of D. Govindan and Uma Nath shows that G. Govindan along with his wife G. Thangan (Appellant/Claimant) and children was living in Jhuggi No. R-35 but it was adjoining to the public urinals. "Katha NGO" had demolished the Jhuggi No. R-35 and constructed public urinals and it had requested Uma Nath to permit G. Thangan and family to construct their Jhuggi on the first floor of the said Jhuggi of Uma Nath. Previously, both the Jhuggis of Uma Nath was single storey structure and their roof was made of asbestos sheet. But in the year 2019, the pucca Jhuggi was constructed. Two separate numbers were given. The first floor bearing no. C-200 regarding which DDA has made allotment in favour of Urmila W/o Uma Nath and Jhuggi No. C-200/1 was given to the second room on the ground floor and regarding that DDA has made allotment in favour of Sushma W/o Anand S/o Uma Nath.

12. The Appellant/Claimant has claimed allotment against the first floor of the Jhuggis bearing Nos. C-200 & C-200/1. However, both D. Govindan and Uma Nath have specifically stated that the Jhuggi on the first floor was constructed by the Appellant/Claimant in the year 2019. This shows that the Appellant/Claimant was not living on the first floor of the Jhuggis of Uma Nath because at the given time, the said structure was a single storey structure having roof made with asbestos and accordingly, no construction can be made on the first floor. It is also pertinent to point out that the Appellant/Claimant has tendered documents Annexure-A to Annexure-J prepared on the

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address of Jhuggi No. R-35 whereas she is claiming allotment against the first floor of Jhuggis No. C-200 & C-200/1. The Appellant/Claimant is not having any documents prepared on the address of Jhuggis No. C-200 & C-200/1 regarding which she is claiming allotment from DDA.

13. The material placed on file shows that the first floor of the Jhuggis No. C-200 & C-200/1 of the Appellant/Claimant was not in existence on the cut off date of 01.01.2015 because it has come in existence much after in the year 2019. Furthermore, the Appellant/Claimant was not having any document issued on the address of Jhuggi No. C-200 & C-200/1 regarding which she is claiming allotment from DDA but she is having documents issued on the address of Jhuggi No. R-35, which was demolished in 2008.

14. DDA has furnished the survey record along with seven video clips. The video clips were played before D. Govindan when his statement was recorded before us on 22.03.2023 wherein he has stated that in one video, Uma Nath is seen on the ground floor of Jhuggi No. C-200 and his room & kitchen are also seen. The other two videos pertain to the ground floor of Jhuggi No. C-200/1 in which Sushma is seen and her room & kitchen are also seen. In the remaining four videos, Appellant/Claimant G. Thangam and his son G. Diwakar is seen on the first floor and further, she is holding a slate on which "R-35" is written.

15. It is pointed out that the Appellant/Claimant G. Thangam has made representation to DDA to seek allotment against the first floor of Jhuggi No. R-35. However she has not appeared before us to make statement before us to support her claim. Instead she has examined her husband D. Govindam and one another person, Uma Nath and their statements were recorded on 22.03.2023 but they have tried to give altogether a different storey.

16. As per statement of D. Govindan and Uma Nath the family of the Appellant/Claimant G. Thangan was living in a single storey Jhuggi No. R-35, which was situated on the main road in Bhoomiheen Camp. However, this Jhuggi was demolished in the year 2008 when "Katha –NGO" had constructed a urinal in its place. Therefore, the family of the Appellant/Claimant had shifted to the Jhuggi of Uma Nath S/o Sri Ram. Admittedly, at that time, the Jhuggi of Uma Nath was single storey structure and it comprised of two rooms on the ground floor and was having roof made with asbestos sheet. This shows that Jhuggi No. R-35 regarding which the Appellant/Claimant is claiming allotment from DDA was demolished in the year 2008 and the Appellant/Claimant along with her family had shifted to the Jhuggi of Uma Nath. This shows that Jhuggi No. R-35 was not in existence on the cutoff date of 01.01.2015 and accordingly the Appellant/Claimant cannot claim allotment against that Jhuggi.

17. As mentioned above, the single storey Jhuggi No. R-35 was demolished in the year 2008 when "Katha –NGO" had constructed a urinal in its place and accordingly the family of the Appellant/Claimant had shifted to the Jhuggi of Uma Nath S/o Sri Ram. Furthermore,

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both D. Govindan and Uma Nath have categorically stated that at that time the Jhuggi of Uma Nath was single storey structure, which comprised of two rooms and was having roof made with asbestos sheet. Therefore, the Appellant/Claimant had shifted to one of the rooms of the single storey Jhuggi of Uma Nath in the year 2008.

18. However, in the year 2019 Uma Nath had allowed the Appellant/Claimant to construct her Jhuggi on the first floor. Thus the fact remains that the single storey Jhuggi of Uma Nath was converted into double storey structure in the year 2019 and it comprised of two rooms on the ground floor and two rooms on the first floor. The material placed on file shows that both the rooms on the ground floor were given different Jhuggi numbers, namely, Jhuggi No. C-200 and C-200/1 and regarding that DDA has made two allotments. One in favour of urmila wife of Uma Nath against Jhuggi No. C-200 and the second in favour of Sushma wife of Anand, who is son of Uma Nath against Jhuggi No. C-200/1. The Appellant/Claimant has got the survey conducted on the first floor of the Jhuggi of Uma Nath thereby misrepresenting the survey team because in the video prepared by the survey team the Appellant/Claimant G. Thangan and her son Diwakar are seen and further the Appellant/Claimant is seen holding a slate on which **"R-35"** is written inspite of the fact that the said Jhuggi No. R-35 was demolished long ago in the year 2008.

19. Furthermore, both D. Govindan and Uma Nath have categorically stated that the Appellant/Claimant is claiming allotment against the first floor of the Jhuggis bearing numbers, C-200 & C-22/1 of Uma Nath but as mentioned above she is getting the survey conducted thereby trying to misrepresent that it was Jhuggi No. R-35. But as mentioned above, the single storey Jhuggi No. R-35 was demolished way back in the year 2008 when "Katha –NGO" had constructed a urinal in its place. This shows that Jhuggi No. R-35 regarding which the Appellant/Claimant is claiming allotment from DDA was demolished in the year 2008 and the Appellant/Claimant along with her family had shifted to the Jhuggi of Uma Nath. This shows that Jhuggi No. R-35 was not in existence on the cutoff date of 01.01.2015 and accordingly the Appellant/Claimant cannot claim allotment against that Jhuggi.

20. Accordingly, we have no hesitation in holding that the Jhuggi No. R-35 was not in existence on the cutoff date of 01.01.2015 but the Appellant/ Claimant were living on the first floor of the Jhuggis bearing numbers, C-200 & C-22/1 of Uma Nath, which had come into existence in the year 2019. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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

23. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/70.G/1566 dated 07.11.2022.

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

> **"Part-B**
> **<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,

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

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

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

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

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

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

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

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

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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."

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

GIST OF THE POLICY

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

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

30. The Appellant/Claimant has tendered her Voter ID Card bearing No. ARE 1344829, (Annexure-A, Aadhar Card (Annexure-B), Voter List of the year 2008 (Annexure-H), Voter List of the year 2013 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

31. It is pointed out that the Voter ID Card No. ARE 1344829 (Annexure-A) has been issued on 20.04.2009, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 778 in the Voter List of the year 2008 (Annexure-H), at Sl. No. 695 in the Voter List of the year 2013 and at Sl. No. 1029 in the Voter List of the year 2019 (Annexure-J). However, it is pointed out that the address of the Appellant/Claimant in all these documents has been mentioned to be R-35.

32. It is pointed out that the Appellant/Claimant has herself not made statement but instead she has examined her husband G. Govindan in support of her claim and in his statement

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made before us he has specifically stated that the Appellant/Claimant is claiming allotment against the first floor of the Jhuggis bearing numbers, C-200 & C-22/1 of Uma Nath and not against the Jhuggi No. R-35. G. Govindan and Uma Nath have stated that the Appellant/Claimant G. Thangan along with her family was living in a single storey Jhuggi No. R-35, which was situated on the main road in Bhoomiheen Camp. However, that Jhuggi was demolished in the year 2008 when "Katha –NGO" had constructed a urinal in its place and the family of the Appellant/Claimant had shifted to the Jhuggi of Uma Nath S/o Sri Ram and at that time, the Jhuggi of Uma Nath was single storey structure. However, in the year 2019 Uma Nath had allowed the Appellant/Claimant to construct her Jhuggi on the first floor of his Jhuggi and the Appellant/Claimant is claiming allotment against the first floor of the Jhuggis bearing numbers, C-200 & C-22/1 of Uma Nath and not against the Jhuggi No. R-35. Thus the fact remains that the Jhuggi No. R-35 regarding which the Appellant/Claimant is claiming allotment from DDA was demolished in the year 2008 and the Appellant/Claimant along with her family had shifted to the Jhuggi of Uma Nath. This shows that the Jhuggi No. R-35 was not in existence on the cutoff date of 01.01.2015 and accordingly the Appellant/Claimant cannot claim allotment against that Jhuggi. Hence, 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. The Appellant/Claimant has tendered the Gas Inspection Slip (Annexure-C), Voter ID Card No. ARE 1344811 (Annexure-D), Aadhar Card (Annexure-E) of her husband D. Govindan as well as her two Ration Cards (Annexure-F &Annexure-G).

34. It is pointed out that the Gas Inspection Slip (Annexure-C) shows that the inspection has been done on 25.07.2022, much after the cut off date of 01.01.2015. The Voter ID Card No. ARE 1344811 (Annexure-D) of D. Govindan has been issued on 20.04.2009. The Appellant/Claimant has tendered the old Ration Card (Annexure-F), which has been issued in the name of her husband D. Govindan on 09.04.2010 and the name of the Appellant/Claimant is mentioned. The new Ration Card (Annexure-G) has been issued in favor of the Appellant/Claimant on 18.06.2015, much after the cut off date of 01.01.2015. It is pointed out that all the documents have been issued on the address of R-35, Bhoomiheen Camp. As pointed out above, the Appellant/Claimant has changed her stand before us. Admittedly, the Appellant/Claimant with her family was living in Jhuggi No. R-35 but it was demolished in the year 2008 and the Appellant/Claimant shifted to the single storey Jhuggi of Uma Nath, which was made double storey in the year 2019. The Appellant/Claimant has claimed allotment from DDA against the first floor of the Jhuggis bearing numbers, C-200 & C-22/1 of Uma Nath, which was made double storey in the year 2019. The Jhuggi No. R-35 was demolished in the year 2008 and accordingly it was not in existence on the cutoff date of 01.01.2015 but the Appellant/Claimant has tried in

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futility to use the documents issued on the Jhuggi No. R-35 inspite of the fact that she has been claiming allotment against the first floor of the Jhuggis bearing numbers, C-200 & C-22/1 of Uma Nath. Hence, 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. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The material placed on file shows that the Jhuggi No. R-35 regarding which the Appellant/Claimant is claiming allotment from DDA was demolished in the year 2008 and the Appellant/Claimant along with her family had shifted to the Jhuggi of Uma Nath, which happened to be single storey at that time. This shows that the Jhuggi No. R-35 was not in existence on the cutoff date of 01.01.2015 and accordingly the Appellant/Claimant cannot claim allotment against that Jhuggi. Further the Appellant/Claimant is now claiming allotment against the first floor of the Jhuggis bearing numbers, C-200 & C-22/1 of one Uma Nath S/o Sri Ram but admittedly the first floor was constructed in the year 2019, therefore, the Appellant/Claimant is not eligible to claim allotment as the first floor of said Jhuggi was not in existence on the cutoff date of 01.01.2015 and further the Appellant/Claimant is not having any documents issued on the said Jhuggi on the first floor of the Jhuggis bearing numbers, C-200 & C-22/1 of Uma Nath S/o Sri Ram. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/70.G/1566 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 401 of 2023

Date of Institution: 29.11.2022

Date of Order: 10.07.2023

Present: Appellant/ Claimant Shahnawaz S/o Md. Farook

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-71, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-71 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/1.1/1199 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 401 of 2023 has been filed by the present Appellant/Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 24.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-71 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Shahnawaz, has been recorded before us on 24.05.2023 wherein he has stated that his parents, Farook & Khalikun Nisha, are having one son, Shahnawaz and six daughters, Nur Jahan, Shahjahan, Shabana, Shanaz, Shabnam & Savina. All the children are married. All the daughters, Nur Jahan, Shahjahan, Shabana, Shanaz & Shabnam are living in their respective matrimonial homes in Allahabad, Uttar Pradesh whereas Savina is living in Bhoomiheen Camp. Shahnawaz (Appellant/Claimant) is married with Safia Begum and having two children, Humaira & Aniza.

8. The Appellant/Claimant has stated that his family is having two adjoining Jhuggis bearing No. C-71 & C-72. The Jhuggi bearing No. C-72 is a single storey Jhuggi and the Appellant/Claimant uses it for running a grocery shop. The adjoining triple storey Jhuggi no. C-71 is having one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Farook & Khalikun Nisha, are living on the ground floor of Jhuggi No. C-71 and regarding that DDA has made allotment in favour of his mother Khalikun Nisha. These facts are not disputed by DDA.

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10. The Appellant/Claimant has stated that his sister Savina is living on the first floor of the said Jhuggi No. C-71 but she has not claimed allotment from DDA. The Appellant/Claimant has stated that he along with his wife Safia Begum and the children is living on the second floor of the said Jhuggi No. C-71. The Appellant/Claimant has claimed allotment from DDA against the second floor of the said Jhuggi No. C-71 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 401 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered the documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with seven video clips pertaining to the Jhuggi No. C-71. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 24.05.2023 wherein he has stated that in two video clips, his mother Khalikun Nisha is seen on the ground floor of the Jhuggi No. C-71 and her room & kitchen are also seen. In the next two video clips, a pucca staircase going from the outside in the gali to the upper floor is seen and further, his sister Savina is seen on the first floor of the Jhuggi No. C-71 and his room & kitchen are also seen. In the remaining three video clips, a shop on the ground floor of Jhuggi No. C-72 is seen in which the Appellant/Claimant is seen holding a slate in his hand on which "SHAHNAWAZ G/SHOP C-72/F" is written. The Appellant/Claimant is also seen in his room on the second floor and he is seen holding a slate on which "SHAHNAWAZ G/SHOP C-72/S" has been written. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. C-71 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. C-71 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

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

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

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation

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

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/6/1.1/1199 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is

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double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

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

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

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

GIST OF THE POLICY

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

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

26. It is also pertinent to point out that the Appellant/Claimant has stated that his family is having two adjoining Jhuggis bearing No. C-71 & C-72. The Jhuggi bearing No. C-72 is a single storey Jhuggi and the Appellant/Claimant uses it for running a grocery shop. Whereas the adjoining triple storey Jhuggi no. C-71 is having one room on each floor and the Appellant/Claimant was living on the second floor of the said Jhuggi. Thus the Appellant/Claimant cannot claim allotment against both the Jhuggis as per the guidelines issued by DDA.

27. The condition contained in Part–B Paras No. 8 & 9 of DDA policy detailed in Para no. 16 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."*

28. It is pointed out that the Appellant/Claimant cannot claim allotment thereby taking a stand that he was running shop from the ground floor of Jhuggi No. C-72 and living on the second floor of the adjoining Jhuggi No. C-71 because both the Jhuggis are separate dwelling unit and the claim of the Appellant/Claimant is not covered under condition contained in Part–B Paras No. 8 & 9 of DDA policy. But his eligibility is to be determined against the second floor of Jhuggi No. C-71.

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

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

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

32. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1168608 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

33. It is pointed out that the Voter ID No. ARE 1168608 (Annexure-A) has been issued on 17.10.2008, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 411 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 4612 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

34. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-71 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-H) issued in favour of his mother Khalikun Nisha and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-71 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

35. The Appellant/Claimant has also tendered the Voter ID Card no. ARE 2221216 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Safia Begum as well as Electricity Bill (Annexure-G).

36. It is pointed out that the Voter ID Card No. ARE 2221216 (Annexure-D), has been issued on 04.03.2019, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken by his father, Md. Farook, on 06.06.2008 on the ground floor of the Jhuggi No. C-71 thereby showing that the Appellant/Claimant was

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not having a separate electricity connection on the second floor of the Jhuggi No. C-71 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-71 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/6/1.1/1199 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 687 of 2023

Date of Institution: 25.01.2023

Date of Order: 10.07.2023

Present: Appellant/ Claimant Kalawati W/o Ram Babber

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-130, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-130 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/67/14.G/1510 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 687 of 2023 has been filed by the present Appellant/Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 03.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-130 was found to exist but she had failed to submit required documents, i.e., Voter ID Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Kalawati, has been recorded before us on 03.04.2023 wherein she has stated that her husband Ram Babu had expired on 23.04.2013 thereby leaving behind two sons, Kishan Kumar & Ajay Kuamr. The death certificate of Ram Babu is Annexure-F. Ajay Kumar is married with Reena and having one son Anshu. Kishan Kumar is married with Sushila and having two sons Atul & Ritik.

8. The Appellant/Claimant has stated that she along with her husband Ram Babu (till his death on 23.04.2013) is living in single storey Jhuggi No. A-130 along with the family of both of her sons. But after the marriage of the sons, the family had faced space constraint and accordingly, both the sons Kishan Kumar & Ajay Kumar along with their families have started living on rent in Bhoomiheen Camp. After the death of her husband on 23.04.2013, the Appellant/Claimant also started living in her native village in District Gonda, Uttar Pradesh but she used to visit her Jhuggi in Bhoomiheen Camp off and on.

9. The Appellant/Claimant has stated that she has sought allotment from DDA against the Jhuggi No. A-130 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 687 of 2023.

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

10. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. A-130. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 03.04.2023 wherein she has stated that in the video her son Ajay Kumar is seen getting the survey conducted on her behalf and he is also seen holding a slate in his hands on which "Kalawati A-130" is written and further, Ajay is also heard stating that he is living since long jointly in the said Jhuggi with his mother.

11. The statement of the Appellant/Claimant shows that after the death of her husband in 2013, she had shifted to her native village in District Gonda, Uttar Pradesh but she kept on visiting Delhi. It is pointed out that after the marriage of both her sons, the family had faced space constraint and accordingly, both the sons were living in Bhoomiheen Camp on rent. This shows that Ajay Kumar has made a wrong statement at the time of the survey that he was living jointly with his mother.

12. Furthermore, the admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the Appellant/Claimant was not living in Jhuggi No. A-130. Had she been living in Jhuggi No. A-130 then she would have come forward to get the survey conducted herself. Getting the survey conducted by Ajay shows that the Appellant/Claimant was not living in the said Jhuggi as she is admittedly living in District Gonda, Uttar Pradesh since 2013. Thus, the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living separately in Jhuggi No. A-130 regarding which she is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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

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

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

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

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

15. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in

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

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

17. The Appellant/Claimant has tendered her Voter ID Card No. DL/03/035/240106 (Annexure-A), Aadhar Card (Annexure-B) & Voter List of the year 2009 (Annexure-I).

18. It is pointed out that the Voter ID Card No. DL/03/035/240106 (Annexure-A) has been issued on 28.01.1995, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant also appears at Sl. No. 630 in the Voter List of the year 2009 (Annexure-I). It is pertinent to point out that the Appellant/Claimant has categorically admitted that she did not use the Voter ID Card No. DL/03/035/240106 (Annexure-A) to cast her vote after 2009 because after the death of her husband, she had shifted to her native village in Uttar Pradesh. This explains as to why the Appellant/Claimant has not tendered the Voter List after the year 2009 and more specifically the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The material placed on file shows that the Appellant/Claimant was not living in Jhuggi No. A-130 on the cutoff date of 01.01.2015 and that is why she did not use her Voter ID Card No. DL/03/035/240106 (Annexure-A) to cast her vote after 2009 on the address of Jhuggi No. A-130 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 but her name does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

19. The Appellant/Claimant has tendered old Ration Card (Annexure-G) which has been issued in the name of her husband Ram Babu (since deceased) on 01.03.1996 in which the names of the family members, including that of the present Appellant/Claimant, are mentioned. The Appellant/Claimant has also tendered the new Ration Card (Annexure-H), which has been issued in the name of the Appellant/Claimant on 31.05.2014. However, the Ration Cards are of no relevance because the material placed on file shows

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that the Appellant/Claimant was not living in Jhuggi No. A-130, Bhoomiheen Camp since 2013 but she had got the survey conducted out of greed to claim alternative allotment from DDA.

20. The Appellant/Claimant has also tendered the Voter ID Card No. DL/03/035/240105 (Annexure-C) & Aadhar Card (Annexure-D) of her husband Ram Babu and Electricity Bill (Annexure-E).

21. It is pointed out that the Voter ID Card No. DL/03/035/240105 (Annexure-C) has been issued on 28.01.1995 but no Voter List is placed on file to show that Ram Babu had used this Voter ID Card to cast his vote up till his death in the year 2013. This shows that neither the Appellant/Claimant nor her husband Ram Babu (since deceased) had used their Voter ID Cards to cast vote in the year 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The Electricity Bill (Annexure-E) shows that the connection has been taken by Ram Babu on 14.07.2008.

It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not living in Jhuggi No. A-130, Bhoomiheen Camp since 2013 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.

22. The material placed on file shows that the Appellant/ Claimant was not living in Jhuggi No.A-130, Bhoomiheen Camp on the cutoff date of 01.01.2015 because as per our discussion above the Appellant/Claimant was living in her native village in District Gonda, Uttar Pradesh since 2013 and further her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

23. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material 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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385/67/14.G/1510 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

10/7/2023	10/7/2023	10/7/2023
(Ranbir Singh)	**(Satish Ahlawat)**	**(Rachna Tiwary)**
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 224 of 2023

Date of Institution: 23.11.2022

Date of Order: 11.07.2023

Present: Appellant/ Claimant Konika D/o Himanshu Mondal

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-18, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-18 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/26.1.2/1471 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 224 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 20.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support

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of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-18 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant /Claimant, Konika, has been recorded before us on 20.04.2023 wherein he has stated that her maternal grandfather, Pati Ram, had entered into first marriage with Prabha Roy and they had three daughters, namely, Deepa, Ranjeeta & Rinki from the wedlock. All the daughters are married. Rinki is married with Biswajit but they are not having any child. Deepa is married with Vishal and is having one son, Nishit. Ranjeeta is married with Himanshu and and they are having four children, Konika (Appellant/Claimant), Parnav, Jyoti & Shadev. Ranjeeta, Himanshu and Sahdev lives in Madhya Pradesh whereas other children Parnav, Jyoti & Konika are living in Bhoomiheen Camp.

8. The Appellant/Claimant has stated that her maternal grandmother, Pabha Roy, had expired in the year 2006 after that her maternal grandfather, Pati Ram, had entered into second marriage with Mita Roy and they are having one son Mohit out of wedlock. Mohit is unmarried.

9. The Appellant/Claimant has stated that her maternal grandparents are having a triple storey Jhuggis No. A-18, Bhoomiheen camp, which comprises of one room on each floor. The first and the second floors are not having independent access from the gali but an iron ladder has been placed inside the room on the ground floor for going to the upper floor and further in order to reach the second floor one has to use another iron ladder placed

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inside the room on the first floor. This shows that the first and the second floors of the Jhuggi No. A-18 are not separate & independent dwelling units because they are not having an independent access from the gali. However, in order to reach the first and the second floors, one has to use the iron ladder has been placed inside the room on the ground floor. Therefore, both the first and the second floors of Jhuggi No. A-18 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of his in-law, Pati Ram & Mita Roy, on the ground floor bearing Jhuggi No. A-18 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. A-18 are not having any independent access from the gali but in order to reach the upper floors, one has to use the iron ladder has been placed inside the room on the ground floor and further in order to reach the second floor one has to use another iron ladder that has been placed inside the room on the first floor. Therefore, the ground, first & the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-18 of his in-law, Pati Ram & Mita Roy, for all purposes.

11. The Appellant/Claimant has stated that her maternal grandfather, Pati Ram, along with his second wife Mita Roy and their unmarried son Mohit from the second marriage is living on the ground floor of the said Jhuggi No. A-18 and regarding that DDA has already made allotment in favour of Mita Roy against the said Jhuggi. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that Biswajit along with his wife Rinki is living on the first floor of Jhuggi No. A-18 and Biswajit has sought allotment against the first floor of the said Jhuggi No. A-18 but his claim for allotment has been rejected by EDC and aggrieved by the same he has filed the appeal No. 608 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that she along with her brother Parnav & sister, Jyoti, is living on the second floor of Jhuggi No. A-18. The Appellant/Claimant has sought allotment against the second floor of the said Jhuggi No. A-18 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same she has filed the present appeal No. 224 of 2023 before the Appellate Authority for redressal. Appellant/Claimant has tendered documents, Annexure-A to Annexure-E, in support of her claim and prayed that directions be passed to DDA for making allotment in her favour.

14. It is pointed out that both the appeals bearing Appeal No. 224 of 2023 and Appeal No. 608 of 2023 shall be decided separately on their individual merit.

15. DDA has furnished 5 video clips along with the survey records of Jhuggi No. A-18. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 20.04.2023 wherein he has stated that in the first two videos of the ground floor her maternal grandmother, Mita Roy, is seen and further her room & kitchen are also

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seen in theses videos. One iron ladder going from inside the room on the ground floor to the first floor is also seen. Further in the next three videos Rinki w/o Biswajit is seen and their room & kitchen are also seen and an iron ladder going from inside their room to the second floor is also seen in these videos. But no video of second floor of the present Appellant/Claimant was prepared because when the survey team had come on the spot for survey her Jhuggi was locked.

16. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. A-18 are not having any independent access from the gali but in order to reach the upper floors one has to use the iron ladder has been placed inside the room on the ground floor and further in order to reach the second floor one has to use another iron ladder that has been placed inside the room on the first floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-18 of her maternal grandmother, Mita Roy, for all purposes.

17. Thereby keeping in view that the first and the second floors of Jhuggi No. A-18 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-18 of her maternal grandmother, Mita Roy, for all purposes and DDA has already made allotment in favour of her maternal grandmother, Mita Roy, regarding the said Jhuggi No. A-18. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Mita Roy, therefore, Biswajit (Appellant/Claimant of Appeal No. 608) is not entitled to seek second allotment from DDA against the first floor and similarly Koinika D/o Himanshu & Ranjita (Appellant/Claimant of Appeal No. 224) also cannot seek allotment from DDA against the second floor that very Jhuggi No. A-18. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the second floor because it is part & parcel of single dwelling unit bearing Jhuggi No. A-18 of her maternal grandmother, Mita Roy. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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

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20. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/26.1.2/1471 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

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

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

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

33. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2056174 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the Year 2019 (Annexure-D).

34. The Appellant/Claimant has tendered her Voter ID Card bearing number ARE 2056174 (Annexure-A), which has been issued on 20.06.2015, much after the cut off date of 01.01.2015. Therefore the question of her name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise at all. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 17 in the Voter List of the Year 2019 (Annexure-D) and the number of his Voter ID Card has been mentioned to be bearing number ARE 2056174. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015. The Appellant/Claimant has tendered Ration Card (Annexure-L) issued in the name of her maternal grandmother Mita Roy in which her name is mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the second floor of the Jhuggi No. A-18 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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36. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further all the three floors of Jhuggi No. A-18 has also been found to be one dwelling unit bearing Jhuggi No. A-18 of Mita Roy for all purposes and DDA has already made allotment in favour of Mita Roy (maternal grandmother of the Appellant/Claimant) regarding the said Jhuggi No. A-18. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

37. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory documents, i.e., a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and further all the three floors of Jhuggi No. A-18 has also been found to be one dwelling unit bearing Jhuggi No. A-18 of Mita Roy for all purposes and DDA has already made allotment in favour of her maternal grandmother, Mita Roy, regarding the said Jhuggi No. A-18 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/26.1.2/1471 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

11/7/2023

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

11/7/2023

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

11/7/2023

(Rachna Tiwary)
EXPERT MEMBER

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

Appeal No: 311 of 2023

Date of Institution: 28.11.2022

Date of Order: 11.07.2023

Present: Appellant/Claimant Raju Barman S/o Priya Nath Barman

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-478, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-478 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/114.3/875 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 311 of 2023 has been filed by the present Appellant/Claimant.

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

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

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-478 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Raju Barman, has been recorded before us on 19.04.2023 wherein he has stated that his parents, Priya Nath & Renu, are having two sons; Raju & Ratan, and two daughters; Rinku & Moni. All the children are married. Moni is married with Parvin and she is living in her matrimonial home in Mohammadpur Khadar, Delhi. Rinku is married with Prem Bhagat and she is living in her matrimonial home bearing Jhuggi No. B-473, Bhoomiheen Camp. Ratan is married with Partima and having two children Sweta & Nishika. Raju (Appellant/Claimant) is married with Tara and having two children Urvi & Anushka.

8. The Appellant/Claimant has stated that his family is having a four storey Jhuggi No. B-478 and it comprises of one room on each floor and there is a pucca staircase going from outside in the gali to the upper floor. The ground floor is being used as a shop for running a "Kiryana Shop" (Grocery Shop). His parents, Priya Nath & Renu are living in the room on the first floor of Jhuggi No. B-478 and regarding that DDA has made allotment in favour of his father Priya Nath. These facts are not disputed by DDA.

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9. The Appellant /Claimant has stated that his brother Ratan along with his wife Partima & children is living on the second floor of the said Jhuggi No. B-478 and he has claimed allotment from DDA against the second floor of the said Jhuggi No. B-478 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 312 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Tara and both the children, Urvi & Anushka, is living on the third floor of Jhuggi No. B-478. The Appellant/Claimant has claimed allotment from DDA against the third floor of the said Jhuggi No. B-478 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 311 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. It is pertinent to point out that both the appeals bearing Appeal No. 311 of 2023 and Appeal No. 312 of 2023 shall be decided separately on their individual merit.

12. DDA has furnished the survey record along with eleven video clips pertaining to Jhuggi No. B-478. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 19.04.2023 wherein he has stated that in two video clips, the grocery shop on the ground floor is seen and further Renu is also seen in that shop. In the next three video clips, a pucca staircase from outside in the gali and going from the ground floor to the upper floors is seen and Renu, mother of the Appellant/Claimant, is seen on the first floor and her room & kitchen are also seen. The next three videos pertain to the second floor in which Ratan is seen and his room & kitchen are also seen. Further, a pucca staircase is also seen. In the remaining three videos, Raju (Appellant/Claimant) is seen on the third floor and his room & kitchen are also seen. Further, a pucca staircase is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a four storey Jhuggi No B-478 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used as shop whereas the first floor is used for residential purposes by the parents, Priya Nath & Renu, of the present Appellant/ Claimant and the second floor is used for residential purposes by Ratan (Appellant/ Claimant of Appeal No. 312 of 2023) and the third floor is used for residential purposes by Raju (Appellant/ Claimant of Appeal No. 311 of 2023).

13. Accordingly, we have no hesitation in holding that the four storey Jhuggi No B-478, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the third floor of the said Jhuggi for residential purposes.

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

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

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the third floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the third floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015 as he is having a joint Ration Card issued in the name of his mother Anjali. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/114.3/875 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and

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

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

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

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

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

30. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1157528 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2014 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

31. It is pointed out that the Voter ID Card Number ARE 1157528 (Annexure-A) has been issued on 09.04.2021, much after the cut off date of 01.01.2015. But it is pointed out that the name of the Appellant/Claimant appears at Sl. No. 608 in the Voter List of the year 2014 (Annexure-H) and at Sl. No. 671 in the Voter List of the year 2019 (Annexure-I). In both the Voter Lists, the number of his Voter ID Card is mentioned to be ARE 1157528. It shows that the original Voter ID Card No. ARE 1157528 must have been issued much

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earlier to 09.04.2021 as it has been reflected in the Voter list of the year 2014 (Annexure-H) & in the Voter list of the year 2019 (Annexure-I) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 09.04.2021 but the original was in existence even in the year 2014 and that is why it has been reflected in the Voter List of the year 2014 (Annexure-H) and also in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 and & also in the year of survey.

32. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of third floor of the Jhuggi No. B-478 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-J), which has been issued in the name of his mother Renu Burman and the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of third floor of the Jhuggi No. B-478 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2529766 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Tara and his Caste Certificate (Annexure-G).

34. It is pointed out that the Voter ID Card No. ARE 2529766 (Annexure-D) has been issued on 08.12.2020, much after the cut off date of 01.01.2015. The Caste Certificate (Annexure-G) has also been issued on 23.10.2021, 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 separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of third floor of the Jhuggi No. B-478 regarding which he is claiming allotment from DDA and further he has claimed allotment against the third floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any

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right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the third floor bearing No. B-478 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/114.3/875 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 312 of 2023

Date of Institution: 28.11.2022

Date of Order: 11.07.2023

Present: Appellant/Claimant Ratan Barman S/o Priya Nath Barman

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-478, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-478 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/114.2/876 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 312 of 2023 has been filed by the present Appellant/Claimant.

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

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

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-478 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Ratan Barman, has been recorded before us on 19.04.2023 wherein he has stated that his parents, Priya Nath & Renu, are having two sons; Raju & Ratan, and two daughters; Rinku & Moni. All the children are married. Moni is married with Parvin and she is living in her matrimonial home in Mohammadpur Khadar, Delhi. Rinku is married with Prem Bhagat and she is living in her matrimonial home bearing Jhuggi No. B-473, Bhoomiheen Camp. Raju is married with Tara and having two children Urvi & Anushka. Ratan (Appellant/Claimant) is married with Partima and having two children Sweta & Nishika.

8. The Appellant/Claimant has stated that his family is having a four storey Jhuggi No. B-478 and it comprises of one room on each floor and there is a pucca staircase going from outside in the gali to the upper floor. The ground floor is being used as a shop for running a "Kiryana Shop" (Grocery Shop). His parents, Priya Nath & Renu are living in the room on the first floor of Jhuggi No. B-478 and regarding that DDA has made allotment in favour of his father Priya Nath. These facts are not disputed by DDA.

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9. The Appellant /Claimant has stated that his brother Raju along with his wife Tara & children is living on the third floor of the said Jhuggi No. B-478 and he has claimed allotment from DDA against the third floor of the said Jhuggi No. B-478 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 311 of 2023 before Appellate Authority for redressal. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Partima and both the children, Sweta & Nishika, is living on the second floor of Jhuggi No. B-478. The Appellant/Claimant has claimed allotment from DDA against the second floor of the said Jhuggi No. B-478 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 312 of 2023 before the Appellate Authority. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. It is pertinent to point out that both the appeals bearing Appeal No. 311 of 2023 and Appeal No. 312 of 2023 shall be decided separately on their individual merit.

12. DDA has furnished the survey record along with eleven video clips pertaining to Jhuggi No. B-478. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 19.04.2023 wherein he has stated that in two video clips, the grocery shop on the ground floor is seen and further Renu is also seen in that shop. In the next three video clips, a pucca staircase from outside in the gali and going from the ground floor to the upper floors is seen and Renu, mother of the Appellant/Claimant, is seen on the first floor and her room & kitchen are also seen. The next three videos pertain to the second floor in which Ratan (Appellant/Claimant) is seen and his room & kitchen are also seen. Further, a pucca staircase is also seen. In the remaining three videos, Raju is seen on the third floor and his room & kitchen are also seen. Further, a pucca staircase is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a four storey Jhuggi No B-478 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used as shop whereas the first floor is used for residential purposes by the parents, Priya Nath & Renu, of the present Appellant/ Claimant and the second floor is used for residential purposes by Ratan (Appellant/ Claimant of Appeal No. 312 of 2023) and the third floor is used for residential purposes by Raju (Appellant/ Claimant of Appeal No. 311 of 2023).

13. Accordingly, we have no hesitation in holding that the four storey Jhuggi No B-478, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

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

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

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

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015 as he is having a joint Ration Card issued in the name of his mother Anjali. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/114.2/876 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and

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

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

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

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

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

30. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1075142 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

31. It is pointed out that the Voter ID Card no. CXY 1075142 has been issued on 07.03.2002, much prior to the cut off date of 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 606 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 669 in the Voter List of the year 2019 (Annexure-L). Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card No. CXY 1075142 and his name appear in the Voter List of 2014 & of the year of survey.

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32. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. B-478 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the joint Ration Card (Annexure-M), which has been issued in the name of his mother Renu Burman and the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. B-478 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1075464 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) of his wife Pratima, Electricity Bill (Annexure-G), Passbook of PNB (Annexure-H) and Passbook of SBI (Annexure-I).

34. It is pointed out that the Voter ID Card No. CXY 1075464 (Annexure-D) has been issued on 07.03.2002. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken by the Appellant/Claimant on 20.12.2017, much after the cut off date of 01.01.2015. The Passbook (Annexure-H) shows that Pratima has opened the account on 09.06.2016 and the Passbook (Annexure-I) shows that the Appellant/Claimant has opened the account on 19.09.2017 thereby showing that the accounts were opened much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of second floor of the Jhuggi No. B-478 regarding which he is claiming allotment from DDA and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-478 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite

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

36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/114.2/876 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 608 of 2023

Date of Institution: 23.11.2022

Date of Order: 11.07.2023

Present: Appellant/ Claimant Biswajit Das S/o Kanai Lal Das

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-18, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-18 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/26.1.1/1470 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 608 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 20.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support

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of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-18 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant /Claimant, Biswajit Das, has been recorded before us on 20.04.2023 wherein he has stated that his father-in-law, Pati Ram, had entered into first marriage with Prabha Roy and they had three daughters, namely, Deepa, Ranjeeta & Rinki from the wedlock. All the daughters are married. Deepa is married with Vishal and is having one son, Nishit. Ranjeeta is married with Himanshu and she lives in her matrimonial home in Madhya Pradesh but her children, Parnav, Jyoti & Konika are living in Bhoomiheen Camp. Rinki is married with Biswajit (Appellant/Claimant) but they are not having any child.

The Appellant/Claimant has stated that his mother-in-law, Pabha Roy, had expired in the year 2006 after that his father-in-law, Pati Ram, had entered into second marriage with Mita Roy and they are having one son Mohit out of wedlock. Mohit is unmarried.

8. The Appellant/Claimant has stated that his father-in-law, Pati Ram, is having a triple storey Jhuggis No. A-18, Bhoomiheen camp, which comprises of one room on each floor. The first and the second floors are not having independent access from the gali but an iron ladder has been placed inside the room on the ground floor for going to the upper floor and further in order to reach the second floor one has to use another iron ladder placed inside the room on the first floor. This shows that the first and the second floors of the Jhuggi No. A-18 are not separate & independent dwelling units because they are not

having an independent access from the gali. However, in order to reach the first and the second floors, one has to use the iron ladder has been placed inside the room on the ground floor. Therefore, both the first and the second floors of Jhuggi No. A-18 are not separate & independent dwelling units but both are part & parcel of one dwelling unit of his in-law, Pati Ram & Mita Roy, on the ground floor bearing Jhuggi No. A-18 for all purposes.

9. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggis No. A-18 are not having any independent access from the gali but in order to reach the upper floors, one has to use the iron ladder has been placed inside the room on the ground floor and further in order to reach the second floor one has to use another iron ladder that has been placed inside the room on the first floor. Therefore, the ground, first & the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-18 of his in-law, Pati Ram & Mita Roy, for all purposes.

10. The Appellant/Claimant has stated that his father-in-law, Pati Ram, along with his second wife Mita Roy and their unmarried son Mohit from the second marriage is living on the ground floor of the said Jhuggi No. A-18 and regarding that DDA has already made allotment in favour of Mita Roy against the said Jhuggi. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Konika D/o Himanshu & Ranjeeta (daughter of Pati Ram) along with her brother Parnav & sister, Jyoti, is living on the second floor of Jhuggi No. A-18 and Konika has sought allotment against the second floor of the said Jhuggi No. A-18 but her claim for allotment has been rejected by EDC and aggrieved by the same she has filed the appeal No. 224 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Rinki is living on the first floor of Jhuggi No. A-18. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-18 but his claim has been rejected by Eligibility Determination Committee and aggrieved by the same he has filed the present appeal No. 608 of 2023 before the Appellate Authority for redressal. Appellant/Claimant has tendered documents, Annexure-A to Annexure-N, in support of his claim and prayed that directions be passed to DDA for making allotment in his favour.

13. It is pointed out that both the appeals bearing Appeal No. 224 of 2023 and Appeal No. 608 of 2023 shall be decided separately on their individual merit.

14. DDA has furnished 5 video clips along with the survey records of Jhuggi No. A-18. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 20.04.2023 wherein he has stated that in the first two videos of the ground floor his step mother-in-law, Mita Roy, is seen and further her room & kitchen are also seen in theses videos. One iron ladder going from inside the room on the ground floor to

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the first floor is also seen. Further in the next three videos Rinki w/o Appellant/Claimant is seen and their room & kitchen are also seen and an iron ladder going from inside their room to the second floor is also seen in these videos. But no video of second floor of Konika was prepared because when the survey team had come on the spot for survey her Jhuggi was locked.

15. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. A-18 are not having any independent access from the gali but in order to reach the upper floors one has to use the iron ladder has been placed inside the room on the ground floor and further in order to reach the second floor one has to use another iron ladder that has been placed inside the room on the first floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-18 of his mother-in-law, Mita Roy, for all purposes.

16. Thereby keeping in view that the first and the second floors of Jhuggi No. A-18 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. A-18 of his mother-in-law, Mita Roy, for all purposes and DDA has already made allotment in favour of his mother-in-law, Mita Roy, regarding the said Jhuggi No. A-18. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Mita Roy, therefore, Biswajit (Appellant/Claimant of Appeal No. 608) is not entitled to seek second allotment from DDA against the first floor and similarly Koinika D/o Himanshu & Ranjita (Appellant/Claimant of Appeal No. 224) also cannot seek allotment from DDA against the second floor that very Jhuggi No. A-18. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. A-18 of his mother-in-law, Mita Roy. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

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Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he was not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/66/26.1.1/1470 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

26. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2146561 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the Year 2014 (Annexure-M) and Voter List of the Year 2019 (Annexure-N).

27. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2146561 (Annexure-A), which has been issued on 27.03.2017, much after the cut off date of 01.01.2015. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 167 in the Voter List of the Year 2014 (Annexure-M) and at Sl. No. 274 in the Voter List of the Year 2019 (Annexure-N) and the number of his Voter ID Card has been mentioned to be bearing number ARE 2146561. It shows that the original Voter ID Card No. ARE 2146561 must have been issued much earlier to 27.03.2017 as it has been reflected in the Voter list of the year 2014 (Annexure-M) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 27.03.2017 but the original was in existence even in the year 2014 and that is why it has been reflected in the Voter List of the year 2014 (Annexure-M) and also in the Voter List of the year 2019 (Annexure-N). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

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28. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015. The Appellant/Claimant has tendered Ration Card (Annexure-L) issued in the name of his step mother-in-law Mita Roy in which his name is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-18 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. The Appellant/Claimant has tendered the Voter Id Card No. CXY 1538735 (Annexure-D), Aadhar Card (Annexure- E), Pan Card (Annexure-F) & Passport (Annexure-G) of his wife Rinki as well as his Passport (Annexure-H), Driving License (Annexure-I), his Pass Book of Union Bank (Annexure-J) and Pass Book of union Bank (Annexure-K) of his wife Rinki.

30. It is pointed out that the Voter Id Card No. CXY 1538735 (Annexure-D) has been issued on 11.12.2005. Both the Passports (Annexure-G & Annexure-H) have been issued on 26.11.2019 and 19.11.2019 respectively. The Driving License (Annexure-I) has been issued 21.05.2018. The Pass Book of Union Bank (Annexure-J) and Pass Book of union Bank (Annexure-K) shows that the accounts were opened on 02.05.2016 & 07.07.2011 respectively. It is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

31. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further all the three floors of Jhuggi No. A-18 has also been found to be one dwelling unit bearing Jhuggi No. A-18 of Mita Roy for all purposes and DDA has already made allotment in favour of Mita Roy (mother-in-law of the Appellant/Claimant) regarding the said Jhuggi No. A-18. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. A-18 has also been found to be part & parcel of one dwelling unit bearing Jhuggi No. A-18 of Mita Roy for all purposes and DDA has already made allotment in favour of Mita Roy (mother-in-law of Appellant/Claimant) regarding the said Jhuggi No. A-18 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA.

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

32. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/26.1.1/1470 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 18 of 2022

Date of Institution: 27.11.2022

Date of Order: 12.07.2023

Present: Appellant/Claimant Sumit S/o Surender

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-264, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-264 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/121.1/1587 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 18 of 2022 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 12.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support

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of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-264 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Sumit, has been recorded before us on 12.04.2023 wherein he has stated that her parents, Surender & Bebi, are having one son Sumit and one daughter Kiran. Both the children are married. Kiran is married with Biswajeet and having three sons; Sumit, Rohit & Jaideep. Sumit (Appellant/Claimant) is married with Sangeeta and having one daughter Nitika.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. B-264 and it is having a pucca staircase constructed outside in the gali the for going from ground floor to the upper floors. His parents, Surender & Bebi, are living on the ground floor of the said Jhuggi No. B-264 and regarding that DDA has made allotment in favour of his mother Bebi. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his family is living on the second floor whereas his sister Kuran along with her family is living on the first floor of the said Jhuggi no. B-264. But, at the time of the survey, she was not present and accordingly due to some misunderstanding & mistake he has got the survey conducted on the first floor of the Jhuggi No. B-264 in spite of the fact that she was living there. Thereafter, Kiran was also called on the spot and having no option, she got the survey conducted on the second floor of the Jhuggi No. B-264 in spite of the fact that he (Sumit) was living on the second floor and Kiran was living on the first floor.

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10. The Appellant/Claimant has stated that DDA has rejected his claim and also that of his sister, Kiran and aggrieved by the same, he has filed the present Appeal No. 18 of 2022 before the Appellate Authority and Kiran has filed the Appeal No. 19 of 2022. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour against the second floor of the said Jhuggi no. B-264.

11. It is pointed out that both the Appeals bearing Appeal No. 18 of 2022 & Appeal 19 of 2022 shall be decided separately on their respective merits.

12. DDA has furnished the survey record along with nine video clips pertaining to Jhuggi No. B-264. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 12.04.2023 wherein he has stated that in four video clips, Bebi, mother of the Appellant/Claimant is seen on the ground floor of the Jhuggi No. B-264 and her room & kitchen are also seen. In three other videos, he (Sumit-Appellant/Claimant) is seen on the first floor of the Jhuggi No. B-264 and his room & kitchen are also seen and further, he is also seen holding a slate in his hands on which **"Sumit B-264/F"** is written and he is heard making statement that he is living with his wife on the first floor. In the next two videos, the room & kitchen on the second floor is seen and further, Kiran along with her husband is seen and she is also seen holding a slate on which **"Kiran Chakrabarty B-264/S"** has been written and further, she is also heard stating that her husband and three children are living on the second floor and her husband is driving E-rickshaw and also that she is getting the survey conducted on the second floor.

13. The material placed on file shows that the Jhuggi No. B-264 is a triple story structure and DDA had received three claims against each floor. Baby wife of Surender had sought allotment against the ground floor whereas both of her children, namely, Sumit S/o Surender, had sought allotment against the first floor and Kiran D/o Surender had sought allotment against the second floor of the said Jhuggi No. B-264. All the three surveys against each floor were conducted on the same date by the survey team of DDA.

14. The material placed on file shows that the present Appellant/Claimant had sought allotment from DDA against the first floor of Jhuggi No. B-264 but when he made statement before us on 12.04.2023 he has tried in vain to change his stand that he has been living on the second floor and not on the first floor by changing his stand and making statement that he happened to be living on the second floor of the said Jhuggi No. B-264 whereas his sister Kiran was living on the first floor of the said Jhuggi No. B-264 but by some misunderstanding & mistake he had got the survey conducted on the first floor and when Kiran came on the spot she was left with no option but to get the survey conducted on the second floor of the said Jhuggi No. B-264. However, the statement of the Appellant/Claimant cannot be believed because there is nothing on file to support his new stand. On the other hand the videos furnished by DDA shows that in three other videos, Sumit, is seen on the first floor of the Jhuggi No. B-264 and his room & kitchen are also seen and further, Sumit is also seen holding a slate in his hands on which **"Sumit B-**

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264/F" is written and he is also heard making statement that he is living with his wife on the first floor. Furthermore, in two videos, the room & kitchen on the second floor is seen and Kiran (Appellant/Claimant) along with her husband is seen and she is also seen holding a slate on which **"Kiran Chakrabarty B-264/S"** has been written and further, she is also heard stating that her husband and three children are living on the second floor and her husband is driving E-rickshaw and also that she is getting the survey conducted on the second floor. This shows that both Sumit and Kiran had got the survey conducted out of their own free will. The statements made by them as proved by the video clips shows that at the time of survey they had admitted that Sumit along with his family was living on the first floor and Kiran along with her family was living on the second floor. Furthermore, in the videos it is clearly seen that they were holding slates in their hands thereby denoting that Sumeet is living & getting the survey conducting on the first floor as he is holding a slate in his hands on which **"Sumit B-264/F"** is written and Kiran is living & getting the survey conducting on the second floor as she is holding a slate in his hands on which **"Kiran Chakrabarty B-264/S"** is written. This shows that the Appellant/Claimant and his sister Kiran are trying to change the stand so that they can grab maximum allotments from DDA because they very well knew that there are different criterion for first and second floors and the present Appellant/Claimant may not be fulfilling the criterion for the first floor so he is taking chance that his sister may try for the first floor as she may be satisfying the eligibility for the first floor and not for the second floor. But the dwellers cannot be permitted to take divergent stand as per their convenience because they are not doing with bonafide intention but they are acting in a clandestine manner with a dishonest & fraudulent intention wants to cheat & defraud DDA. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. B-264 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

15. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. B-264 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

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

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

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the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/121.1/1587 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of

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rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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

24. The Appellant/Claimant has tendered his Voter ID Card ARE 1521748 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), the Voter List of the year 2012 (Annexure-I) and the Voter List of the year 2019 (Annexure-J).

25. It is pointed out that the Voter ID Card ARE 1521748 (Annexure-A) has been issued on 06.01.2012, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 1221 in the Voter List of the year 2012 (Annexure-I) and at Sl. No. 35 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2012 & also in the year of survey.

26. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. D-264 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card (Annexure-H) issued in the name of his mother Baby and the name of the Appellant/Claimant has also been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. D-264 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2604205 (Annexure-D) & Aadhar Card (Annexure-E) of his wife Sangeeta as well as the Pass Book of UBI (Annexure-F) and the Electricity Bill (Annexure-G).

28. It is pointed out that the Voter ID Card No. ARE 2604205 (Annexure-D) has been issued on 05.09.2022. The Pass Book of UBI (Annexure-F) shows that the account was opened on

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27.08.2014. The Electricity Bill (Annexure-J) shows that the connection has been taken by his father Surender on 07.06.2008 on the address of ground floor of Jhuggi No. D-264 thereby showing that the Appellant/Claimant was not having electricity connection on the first floor of Jhuggi No. D-264 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2012 and also in the year of survey.

30. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/121.1/1587 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 19 of 2022

Date of Institution: 27.11.2022

Date of Order: 12.07.2023

Present: Appellant/Claimant Kiran Chakrawati W/o Biswajeet D/o Surender

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-264, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submissicn of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-264 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/121.2/1588 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 19 of 2022 has been filed by the present Appellant/Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 12.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-264 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"In case of Upper Floor only First Floor is considered for alternative allotment"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Kiran Chakrawati, has been recorded before us on 12.04.2023 wherein she has stated that her parents, Surender & Bebi, are having one son Sumit and one daughter Kiran. Both the children are married. Sumit is married with Sangeeta and having one daughter Nitika. Kiran (Appellant/Claimant) is married with Biswajeet and having three sons; Sumit, Rohit & Jaideep.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B-264 and it is having a pucca staircase constructed in the gali for going from ground floor to the upper floors. Her parents, Surender & Bebi, are living on the ground floor of the said Jhuggi No. B-264 and regarding that DDA has made allotment in favour of her mother Bebi. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that she along with her family is living on the first floor whereas her brother Sumit is living on the second floor of the said Jhuggi no. B-264. But, at the time of the survey, she was not present and accordingly, by taking benefit of her absence, her brother Sumit has got the survey conducted on the first floor of the Jhuggi No. B-264 in spite of the fact that she was living on the first floor and Sumit was living on the

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ground floor. Thereafter, she was also called on the spot and having no option, she got the survey conducted on the second floor of the Jhuggi No. B-264 in spite of the fact that her brother Sumit was living on the second floor and she was living on the first floor.

10. The Appellant/Claimant has stated that DDA has rejected her claim and also that of her brother Sumit and aggrieved by the same, she has filed the present Appeal No. 19 of 2022 before the Appellate Authority and Sumit has filed the Appeal No. 18 of 2022. 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 against the first floor of the said Jhuggi no. B-264.

11. It is pointed out that both the Appeals bearing Appeal No. 18 of 2022 & Appeal 19 of 2022 shall be decided separately on their respective merits.

12. DDA has furnished the survey record along with nine video clips pertaining to Jhuggi No. B-264. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 12.04.2023 wherein she has stated that in four video clips, Bebi, mother of the Appellant/Claimant is seen on the ground floor of the Jhuggi No. B-264 and her room & kitchen are also seen. In three other videos, Sumit is seen on the first floor of the Jhuggi No. B-264 and his room & kitchen are also seen and further, Sumit is also seen holding a slate in his hands on which **"Sumit B-264/F"** is written and he is heard making statement that he is living with his wife on the first floor. In the next two videos, the room & kitchen on the second floor is seen and further, Kiran (Appellant/Claimant) along with her husband is seen and she is also seen holding a slate on which "**Kiran Chakrabarty B-264/S**" has been written and further, she is also heard stating that her husband and three children are living on the second floor and her husband is driving E-rickshaw and also that she is getting the survey conducted on the second floor.

13. The material placed on file shows that the Jhuggi No. B-264 is a triple story structure and DDA had received three claims against each floor. Baby wife of Surender had sought allotment against the ground floor whereas both of her children, namely, Sumit S/o Surender, had sought allotment against the first floor and Kiran D/o Surender had sought allotment against the second floor of the said Jhuggi No. B-264. All the three surveys against each floor were conducted on the same date by the survey team of DDA.

14. The material placed on file shows that the present Appellant/Claimant had sought allotment from DDA against the second floor of Jhuggi No. B-264 but when she made statement before us on 12.04.2023 she has tried in vain to change her stand that she has been living on the first floor and not on the second floor by stating that she happened to be living on the first floor of the said Jhuggi No. B-264 whereas brother Sumit was living on the second floor of the said Jhuggi No. B-264 but Sumit thereby taking advantage of her absence had got the survey conducted on the first floor and when she came on the spot she was left with no option but to get the survey conducted on the second floor of the said Jhuggi No. B-264. However, the statement of the Appellant/Claimant cannot be believed because there is nothing on file to support her new stand. On the other hand the videos

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furnished by DDA shows that in three other videos, Sumit, is seen on the first floor of the Jhuggi No. B-264 and his room & kitchen are also seen and further, Sumit is also seen holding a slate in his hands on which **"Sumit B-264/F"** is written and he is also heard making statement that he is living with his wife on the first floor. Furthermore, in two videos, the room & kitchen on the second floor is seen and Kiran (Appellant/Claimant) along with her husband is seen and she is also seen holding a slate on which **"Kiran Chakrabarty B-264/S"** has been written and further, she is also heard stating that her husband and three children are living on the second floor and her husband is driving E-rickshaw and also that she is getting the survey conducted on the second floor. This shows that both Sumit and Kiran had got the survey conducted out of their own free will. The statements made by them as proved by the video clips shows that that at the time of survey they had admitted that Sumit along with his family was living on the first floor and Kiran along with her family was living on the second floor. Furthermore, in the videos it is clearly seen that they were holding slates in their hands thereby denoting that Sumit is living & getting the survey conducting on the first floor as he is holding a slate in his hands on which **"Sumit B-264/F"** is written and Kiran is living & getting the survey conducting on the second floor as she is holding a slate in his hands on which **"Kiran Chakrabarty B-264/S"** is written. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. B-264 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

15. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. B-264 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

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

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

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore,

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

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/121.2/1588 dated 07.11.2022.

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

"Part-B

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

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

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

31. 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.

32. The Appellant/Claimant has tendered her two Voter ID Cards bearing the same number ARE 1414663 (Annexure-A & C), Aadhar Card (Annexure-D), PAN Card (Annexure-E), Voter List of the year 2014 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

33. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-C), which are bearing the same number ARE 1414663. The first Voter ID Card (Annexure-A) has been issued on 27.09.2013 and the second Voter ID Card (Annexure-C) has been issued on 19.03.2022. The name of the Appellant/Claimant appears at Sl. No. 1047 in the Voter List of the year 2014 (Annexure-M) and at Sl. No. 838 in the Voter List of the year 2019 (Annexure-N) and in both the Voter Lists (Annexure-M & Annexure-N), the number of her Voter ID Card is mentioned to be ARE 1414663. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

34. The Appellant/ Claimant has admitted that she is not having a separate Ration card on the address of the first floor of the said Jhuggi No. D-264 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her Ration Card (Annexure-J), which has been issued in her name and the name of her family members have been mentioned but the date of issuance is not mentioned. The Appellant/Claimant has stated that she had made an application for approval of the Ration Card on 13.10.2014 (Annexure-K) but her Ration Card was issued much after. It is pointed out that the

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Application (Annexure-K) is of no relevance because as per the DDA policy, the date on which the Ration Card is approved is material and the dweller is required that she must have a separate Ration Card on the cut off date of 01.01.2015. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. D-264 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

35. The Appellant/Claimant has tendered the Driving License (Annexure-B), Voter ID Card ARE 2252146 (Annexure-F), Aadhar Card (Annexure-G) & PAN Card (Annexure-H) of her husband Biswajit as well as the Electricity Bill (Annexure-I) and Bank Passbook of Bank of Maharashtra (Annexure-L).

36. It is pointed out that the Driving License (Annexure-B) has been issued on 03.10.2016 and the Voter ID Card No. ARE 2252146 (Annexure-F) has been issued on 27.03.2019. The Electricity Bill shows that the connection has been taken by her father Surender on 07.06.2008 on the ground floor of Jhuggi No. B-264 thereby showing that the Appellant/Claimant was not having separate electricity connection on the cut off date of 01.01.2015 on the second floor of the Jhuggi No. B-264 regarding which she is claiming allotment from DDA. The Bank Passbook (Annexure-L) shows that Biswajit has opened the account on 30.12.2021. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. D-264 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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38. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/121.2/1588 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 12/7/2023	(Satish Ahlawat) 12/7/2023	(Rachna Tiwary) 12/7/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No:310 of 2023

Date of Institution: 28.11.2022

Date of Order: 12.07.2023

Present: Appellant/ Claimant Vikas Haldar S/o Kartik Haldar

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-246, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-246 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/097.1-A/867 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 310 of 2023 has been filed by the present Appellant/Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 01.06.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-246 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

8. The statement of the Appellant/Claimant, Vikas Haldar, has been recorded before us on 05.07.2023 wherein he has stated that his parents, Kartik & Savita, are having two sons, Biswajit & Vikas and two daughters, Kanchan & Kanan. All the children are married. Kanchan is married with Sapan and Kanan is married with Kankan and both of them are living in their respective matrimonial homes in Bhoomiheen Camp, Kalkaji, Delhi. Biswajit is married with Meera and having one son Piyush. Vikas (Appellant/Claimant) is married with Sarla and having two children Ankita & Hemant.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing no. C-246 and it comprises of one room on the ground floor and two rooms on the first floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Kartik & Savita, are living on the ground floor of the Jhuggi No. C-246 and regarding that DDA has made allotment in favour of his mother Savita. These facts are not disputed by DDA.

11. The Appellant/Claimant has alsostated that his brother Biswajit along with his wife Meera and son Piyush is living in the first room on the first floor of the Jhuggi No. C-246 and Biswajit

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has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 535 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Sarla and both the children Ankita & Hemant is living in the second room on the first floor of Jhuggi No. C-246. The Appellant/Claimant has sought allotment from DDA against the second room on the first floor of Jhuggi No. C-246 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 310 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is pointed out that both the Appeals bearing Appeal No. 310 of 2023 and Appeal N0. 535 of 2023 shall be decided separately on their individual merits.

14. DDA has furnished the survey records along with three video clip of Jhuggi No. C-246. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 05.07.2023 wherein the Appellant/Claimant has stated that one video clip pertains to the ground floor in which his mother Savita is seen and further, her room & kitchen are also seen. The second video clip pertains to the second room on the first floor of the Jhuggi No. C-246 in which his brother Biswajit is seen and further, his room & kitchen are also seen. The third video clip pertains to the second room on the first floor of the Jhuggi No. C-246 in which the Appellant/Claimant Vikas is seen and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. C-246 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-246 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

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

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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-M, 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 No. 385/26/097.1-A/867 dated 07.11.2022.

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

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the jhuggi 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. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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

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22. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1077957 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

23. It is pointed out that the Voter ID Card No. CXY 1077957 (Annexure-A) has been issued on 08.03.2002, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1068 in the Voter List of the year 2014 (Annexure-K) and at SL. No. 1150 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-246 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-J), which has been issued in favour of his mother Savita and the name of the Appellant/Claimant has been mentioned therein but the date of issuance is not mentioned. The Appellant/Claimant has stated that he had made an Application (Annexure-M) on 06.10.2012 for issuance of Ration Card under "Anna Shree Yojana" but he has admitted that till now no Ration Card has been issued in his favour. On this point, it is suffice to point out that merely making of an application for issuance of Ration Card does create any right, title or interest in favour of the Appellant/Claimant to claim allotment from DDA because the policy guidelines prescribes that the dweller must have a Ration Card on the cutoff date of 01.01.2015. Accordingly, merely making of an application for issuance of the Ration Card is of no relevance. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the first floor of Jhuggi bearing No. C-246 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

25. The Appellant/Claimant has tendered the Voter ID Card No. CXY 1549104 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Sarla, PAN Card (Annexure-G) of his daughter Ankita, Passbook of PNB (Annexure-H) and Electricity Bill (Annexure-I).

26. It is pointed out that the Voter ID card No. CXY 1549104 (Annexure-D) has been issued on 24.12.2005, much prior to the cut off date 01.01.2015. The Passbook of PNB (Annexure-H) shows that the account has been opened by the Appellant/Claimant on 23.11.2012. The Electricity Bill (Annexure-I) shows that the connection has been taken by his father Kartik on the address of ground floor of the Jhuggi No. C-246 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. C-246 regarding which he is claiming allotment from DDA. It is pointed out that the

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above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-246 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-246 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/097.1-A/867 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 535 of 2023

Date of Institution: 05.12.2022

Date of Order: 12.07.2023

Present: Appellant/ Claimant Biswajeet Haldar S/o Kartik Haldar

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-246, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-246 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/97.1/868 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 535 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 05.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of

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his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-246 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

8. The statement of the Appellant/Claimant, Biswajeet Haldar, has been recorded before us on 05.07.2023 wherein he has stated that his parents, Kartik & Savita, are having two sons, Biswajit & Vikas and two daughters, Kanchan & Kanan. All the children are married. Kanchan is married with Sapan and Kanan is married with Kankan and both of them are living in their respective matrimonial homes in Bhoomiheen Camp, Kalkaji, Delhi. Vikas is married with Sarla and having two children Ankita & Hemant. Biswajit (Appellant/Claimant) is married with Meera and having one son Piyush.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing no. C-246 and it comprises of one room on the ground floor and two rooms on the first floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his parents, Kartik & Savita, are living on the ground floor of the Jhuggi No. C-246 and regarding that DDA has made allotment in favour of his mother Savita. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Vikas along with his wife Sarla and both the children is living in the first room on the first floor of the Jhuggi No. C-246 and Vikas has sought allotment from DDA but his claim has been rejected by the Eligibility Determination

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Committee and aggrieved by the same, he has filed the Appeal No. 310 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Meera and the son Piyush is living in the second room on the first floor of Jhuggi No. C-246. The Appellant/Claimant has sought allotment from DDA against the second room on the first floor of Jhuggi No. C-246 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 535 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is pointed out that both the Appeals bearing Appeal No. 310 of 2023 and Appeal No. 535 of 2023 shall be decided separately on their individual merits.

14. DDA has furnished the survey records along with three video clip of Jhuggi No. C-246. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 05.07.2023 wherein the Appellant/Claimant has stated that one video clip pertains to the ground floor in which his mother Savita is seen and further, her room & kitchen are also seen. The second video clip pertains to the first room on the first floor of the Jhuggi No. C-246 in which his brother Vikas is seen and further, his room & kitchen are also seen. The third video clip pertains to the second room on the first floor of the Jhuggi No. C-246 in which the Appellant/Claimant is seen and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. C-246 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-246 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

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

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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-M, 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 No. 385/26/97.1/868 dated 07.11.2022.

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

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

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

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

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

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

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

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

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22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1165057 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

23. It is pointed out that the Voter ID Card No. ARE 1165057 (Annexure-A) has been issued on 05.08.2011, much prior to the cutoff date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 111 in the Voter List of the year 2014 (Annexure-L) and at SL. No. 108 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-246 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-J), which has been issued in favour of his mother Savita and the name of the Appellant/Claimant has been mentioned therein but the date of issuance is not mentioned. The Appellant/Claimant has stated that he had made an Application (Annexure-I) on 06.10.2012 for issuance of Ration Card under "Anna Shree Yojana" but he has admitted that till now no Ration Card has been issued in his favour. On this point, it is suffice to point out that merely making of an application for issuance of Ration Card does create any right, title or interest in favour of the Appellant/Claimant to claim allotment from DDA because the policy guidelines prescribes that the dweller must have a Ration Card on the cutoff date of 01.01.2015. Accordingly, merely making of an application for issuance of the Ration Card is of no relevance. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor of Jhuggi bearing No. C-246 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

25. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1166065 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Meera, as well as the Electricity Bill (Annexure-G), Aadhar Card (Annexure-H) of his son Piyush and Aadhar Card (Annexure-K) of his daughter Meenakshi.

26. It is pointed out that the Voter ID card No. ARE 1166065 (Annexure-D) has been issued on 22.02.2009, much prior to the cut off date 01.01.2015. The Electricity Bill (Annexure-G) shows that the connection has been taken by his father Kartik on 06.06.2008, much after the cut off date 01.01.2015 on the address of ground floor of the Jhuggi No. C-246 thereby showing that the Appellant/Claimant was not having an electricity connection on the second floor of the Jhuggi No. C-246 regarding which he is claiming allotment from DDA. It is pointed

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out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-246 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-246 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/97.1/868 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 390 of 2023

Date of Institution: 29.11.2022

Date of Order: 13.07.2023

Present: Appellant/ Claimant Pankaj Mandal S/o Swapan mandal

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-87, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-87 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/41/36.2/1067 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 390 of 2023 has been filed by the present Appellant/Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 01.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-87 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Pankaj Mandal, has been recorded before us on 01.05.2023 wherein he has stated that his parents, Swapan & Taru Lata, are having two sons, Probir & Pankaj (Appellant/Claimant) and one daughter, Mithu. All the children are married. Mithu is married with Dipankar and having two daughters, Drishti & Shristhi and she is living in her matrimonial home in Jhuggi No. A-70, Bhoomiheen Camp regarding that Dipankar has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same Dipankar has filed the Appeal No. 603 of 2023, which is pending before the Appellate Authority. Probir is married with Mitali and having two children Prothisha & Parkriti. Pankaj (Appellant/Claimant) is married with Nisha and having one daughter Vanshika.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. A-87 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

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9. The Appellant/Claimant has stated that his parents, Swapan & Taru Lata, are living on the ground floor of the Jhuggi No. A-87 and regarding that DDA has made allotment in favour of his mother Taru Lata. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Probir along with his wife Mitali and both the children is living on the first floor of the Jhuggi No. A-87 and regarding that Mitali has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 706 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Nisha and daughter Vanshika is living on the second floor of the Jhuggi No. A-87. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. A-87 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 390 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. It is pointed out that all the three appeals bearing Appeal No. 390 of 2023, Appeal No. 603 of 2023 and Appeal No. 706 of 2023 shall be decided separately on their individual merit.

13. DDA has furnished the survey records along with five video clips of Jhuggi No. A-87. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 01.05.2023 wherein the Appellant/Claimant has stated that three video clips pertain to the ground floor in which his mother Taru Lata is seen and further, her room & kitchen are also seen of the ground floor. Two video clips pertain to the second floor in which the Appellant/Claimant Pankaj is seen and further, his room & kitchen are also seen. There is no video clip of the first floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a three storey Jhuggi No. A-87 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the three storey Jhuggi No. A-87 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the second floor of the said Jhuggi for residential purposes.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015)

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

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/41/36.2/1067 dated 07.11.2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the

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

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

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

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

GIST OF THE POLICY

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

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separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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

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

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

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

31. The Appellant/Claimant has tendered his Voter ID Card No. ARE 149335 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2015 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

32. It is pointed out that the Voter ID Card No. ARE 149335 (Annexure-A) has been issued on 02.03.2021, much after the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 24 in the Voter List of the year 2015 (Annexure-J) and at Sl. No. 36 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2015 & also in the year of survey.

33. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-87 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-F & Annexure-G). The joint Ration Card

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(Annexure-F) has been issued in favour of his father Swapan Mandal on 27.02.2009, in which the name of the Appellant/Claimant has been mentioned. The new Ration Card (Annexure-G) has been issued in the name of his mother Taru Lata Mandal on 31.05.2014 and the name of the Appellant/Claimant has also been mentioned therein. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-87 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.

34. The Appellant/Claimant has tendered the Aadhar Card (Annexure-C) & PAN Card (Annexure-D) of his wife Nisha as well as the Electricity Bill (Annexure-E), Caste Certificate (Annexure-H) and Passbook of HDFC Bank (Annexure-I).

35. It is pointed out that the Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his father Swapan Mandal on 19.05.2008 thereby showing that the Appellant/Claimant was not having a separate electricity connection on the second floor of the Jhuggi No. A-87 regarding which he is claiming allotment from DDA. The Caste Certificate of the Appellant/Claimant (Annexure-H) has been issued on 17.03.2014. The Passbook of HDFC Bank (Annexure-I) shows that the account has been opened by the Appellant/Claimant on 23.01.2020, much after the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-87 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per

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guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/41/36.2/1067 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

(Ranbir Singh) 13.7.2023	**(Satish Ahlawat)** 13/7/2023	**(Rachna Tiwary)** 13/7/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 419 of 2023

Date of Institution: 29.11.2022

Date of Order: 13.07.2023

Present: Appellant/ Claimant Mukesh Kumar S/o Ram Baran

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-495, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-495 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/63/43.2/1376 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 419 of 2023 has been filed by the present Appellant/Claimant.

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

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4. The statement of the Appellant/Claimant has been recorded before us on 30.06.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-495 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Mukesh Kumar, has been recorded before us on 30.06.2023 wherein he has stated that his parents, Ram Baran & Prabhavati, are having five sons, Mahesh, Dinesh, Mukesh, Rakesh & Rajesh and one daughter, Anuradha. Ram Baran had expired in the year 2021 and Prabhavati had expired about two years ago. The Death Certificate (Annexure-E) of his father, Ram Baran, shows that he had expired on 10.05.2021. Rakesh & Rajesh are unmarried whereas all the remaining children are married. Anuradha is living in her matrimonial home in Trilokpuri, Delhi. Dinesh is married with Neelam and having two children, Ashi & Dhruv. Dinesh along with his family as well as both the unmarried brothers, Rajesh & Rakesh are living in Bangladesh. Mahesh is married with Saroj Kumari and having three children, Shraddha, Shweta & Aditi. Mukesh (Appellant/Claimant) is married with Durga.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. C-495 and it comprises of one room on the ground floor, two rooms on the first floor and one room on the second floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

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9. The Appellant/Claimant has stated that his parents, Ram Baran (up till his death in 2021) and Prabhavati (up till her death about two years ago), were living on the ground floor of Jhuggi No. C-495 and regarding that DDA has made allotment in favour of her mother-in-law Prabhavati. However, after her death, Rajesh has submitted an application for sanction of mutation in his favour and the matter is still pending with the concerned appropriate authority.

10. The Appellant/Claimant has stated that Mahesh along with his wife Saroj & three children is living on the first floor and Saroj has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed Appeal No. 498 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Durga is living on the second floor. The Appellant/Claimant has sought allotment from DDA against the second floor of Jhuggi No. C-495 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 419 of 2023 before the Appellate Authority. The Appellant/Claimant has also tendered her documents, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. The Appellant/Claimant has further stated that after the death of his mother Parbhawati he along with his wife has shifted to the ground floor of Jhuggi No. C-495 but his brother Rajesh has wrongly claimed mutation of Parbhawati (since deceased) inspite of he fact that after 2020 he is living there. The Appellant/Claimant The Appellant/Claimant has also tendered pen-drive, (Annexure-N) and that is saved in the computer along with the video prepared by the survey team and the same was also played today before the Appellant/Claimant when his statement was recorded before us on 30.06.2023 wherein the Appellant/Claimant is seen living with his family in two rooms on the ground floor where his parents were living before their death. Further pucca staircase is seen going from the ground to the upper floor and two rooms of Saroj on the first floor are seen and the single room of the Appellant/Claimant on the second floor is also seen. On this aspect it is sufficient to point out that the factum of the Appellant/Claimant having started living on the ground floor of Jhuggi No. C-495 in the year 2020 after the death of his mother Parbhawati is of no relevance and the concerned authority shall independently decide the mutation case of Parbhawati (since deceased) as in the present matter we are concerned with respect to the eligibility of the Appellant/Claimant in his individual capacity with regard to the second floor of Jhuggi No. C-495.

13. DDA has furnished the survey records along with five video clips of Jhuggi No. C-495. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 30.06.2023 wherein the Appellant/Claimant has stated that one video clip pertains to the ground floor of the Jhuggi No. C-495 in which he (Mukesh S/o Ram Baran) is seen getting the survey conducted on behalf of his mother Prabhavati (since deceased)

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and further, room & kitchen of Prabhavati are also seen on the ground floor and further, a pucca staircase going from the ground floor to the first floor is also seen. In two video clips, Saroj W/o Mahesh is seen on the first floor and further, her two rooms on the first floor are also seen. In the remaining two video clips, Mukesh S/o Ram Baran (Appellant/Claimant) is seen on the second floor and his room is seen but no kitchen is seen and further, a pucca staircase going from the first floor to the second floor is also seen. This shows that Mukesh S/o Ram Baran has got the survey conducted on the ground floor on behalf of his mother Prabhavati (since deceased) as well as on his behalf on the second floor regarding which he is claiming allotment from DDA. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a three storey Jhuggi No.C-495 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the three storey Jhuggi No. C-495 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the second floor of the said Jhuggi for residential purposes.

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

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

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It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/63/43.2/1376 dated 07.11.2022.

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

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

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

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

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

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

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

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

21. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi

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without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

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

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

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

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

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

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

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

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

GIST OF THE POLICY

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

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

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

29. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the

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

30. The Appellant/ Claimant has 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.

31. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1079623 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

32. It is pointed out that Voter ID Card No. CXY 1079623 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 173 in the Voter List of the year 2014 (Annexure-L) and at Sl. No. 188 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2014 & also in the year of survey.

33. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-495 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-K), which has been issued in favour of his Mother, Prabhawati, and the name of the Appellant/Claimant is mentioned but date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-495 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.

34. The Appellant/Claimant has tendered his Caste Certificate (Annexure-D), the Passbook of SBI (Annexure-F), the Electricity Bill (Annexure-G), as well as Voter ID Card No. ARE 2062677 (Annexure-H), Aadhar Card (Annexure-I) & PAN Card (Annexure-J) of his wife Durga.

35. It is pointed out that Caste Certificate (Annexure-D) has been issued on 20.12.2001. The Passbook of SBI (Annexure-F) shows that the Appellant/Claimant has opened the account on 13.12.2010. The Electricity Bill (Annexure-G) shows that his father Ram Baran had taken the connection on 22.04.2008 on the ground floor of Jhuggi No. C-495, thereby, showing that the Appellant/Claimant was not having connection on the second floor of the Jhuggi No. C-495 regarding which he is claiming allotment from DDA. The

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voter ID Card No. ARE 2062677 (Annexure-H) of his wife Durga has been issued on 07.08.2015, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C- 495 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/43.2/1376 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 528 of 2023

Date of Institution:02.12.2022

Date of Order: 13.07.2023

Present: Appellant/ Claimant Deepak Mandal S/o Ratan Mandal

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-324, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-324 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/58.1/1560 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 528 of 2023 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 26.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support

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of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-324 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card & separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

8. The statement of the Appellant/Claimant, Deepak Mandal, has been recorded before us on 26.05.2023 wherein he has stated that his parents, Ratan Mandal & Arti, are having one son Deepak and three daughters, Rupa, Kajal & Shikha. Ratan Mandal had expired about 10-15 years ago. All the children are married. Rupa, & Shikha are living in their respective matrimonial homes in Odisha whereas Kajal is living in her matrimonial home in Sangam Vihar, Delhi Deepak (Appellant/Claimant) is married with Tapsi and having two sons, Subrato & Devasish.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-324 and it comprises of one room on each floor and pucca staircase is constructed outside in the gali for going to the upper floor.

10. The Appellant/Claimant has stated that his mother, Arti, is living on the ground floor of the Jhuggi No. C-324 and regarding that DDA has made allotment in favour of his mother Arti. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Tapsi and having two sons, Subrato & Devasish, is living on the first floor of Jhuggi No. C-324. The Appellant/Claimant has sought allotment from DDA against the first floor of Jhuggi No. C-324 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 528 of 2023 before the Appellate Authority for redressal.

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

12. DDA has furnished the survey records along with three video clips of Jhuggi No. C-324. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 26.05.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor in which his mother Arti is seen and further, her room & kitchen are also seen of the ground floor. The third video clip pertains to the first floor in which the Appellant/Claimant Deepak is seen on the first floor of the Jhuggi No. C-324 and further, his room & kitchen are also seen and further a pucca staircase going from outside in the gali to the upper floor is also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-324 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. C-324 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & his family is living on the first floor of the said Jhuggi.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor 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-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and his name does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/58.1/1560 dated 07.11.2022.

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

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

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- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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

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

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

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

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

GIST OF THE POLICY

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

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

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

23. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1087907 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

24. It is pointed out that the Voter ID Card No. CXY 1087907 (Annexure-A) has been issued on 12.03.2002, much before the cutoff date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 290 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 311 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of the survey.

25. The Appellant/Claimant has admitted that he is not having a separate Ration Card on the address of first floor of the Jhuggi No. C-324 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-F & Annexure-G). The first joint Ration Card (Annexure-F) has been issued in the name of his mother Arti on 03.04.2010 and the name of the Appellant/Claimant is mentioned. The second joint Ration Card (Annexure-G) has been issued in favour of his mother Arti and the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.1.2015 on the address of Jhuggi No. C-324 against which he is seeking allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

26. The Appellant/Claimant has tendered his Passbook of Allahabad Bank (Annexure-D), Electricity Bill (Annexure-E) and Aadhar Card (Annexure-H) of his wife Tapsi.

27. It is pointed out that the Passbook of Allahabad Bank (Annexure-D) shows that the account has been opened by the Appellant/Claimant on 07.06.2008. The Electricity Bill (Annexure-E) shows that the connection has been taken by his mother Arti on 07.06.2008 on the address of ground floor of Jhuggi No. C-324 thereby showing that the

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Appellant/Claimant was not having a separate Electricity connection on the first floor of the Jhuggi No. C-324 regarding which he is claiming allotment from DDA. It is pointed out that the abovementioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

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

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

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/58.1/1560 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 706 of 2023

Date of Institution: 06.02.2023

Date of Order: 13.07.2023

Present: Appellant/ Claimant Mitali Mandal W/o Probir Mandal D/o Mandandra Biswas

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

ORDER

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

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-87, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-87 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/41/36.1/1066 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 706 of 2023 has been filed by the present Appellant/Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 01.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in

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support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-87 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

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

7. The statement of the Appellant/Claimant, Mitali Mandal, has been recorded before us on 01.05.2023 wherein she has stated that her in-laws, Swapan & Taru Lata, are having two sons, Probir & Pankaj and one daughter, Mithu. All the children are married. Mithu is married with Dipankar and having two daughters, Drishti & Shristhi and she is living in her matrimonial home in Jhuggi No. A-70, Bhoomiheen Camp regarding which Dipankar has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same Dipankar has filed the Appeal No. 603 of 2023 which is pending before the Appellate Authority. Pankaj is married with Nisha and having one daughter Vanshika. Probir is married with Mitali (Appellant/Claimant) and having two children Prothisha & Parkriti.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. A-87 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her in-laws, Swapan & Taru Lata, are living on the ground floor of the Jhuggi No. A-87 and regarding that DDA has made allotment in favour of her mother-in-law Taru Lata. These facts are not disputed by DDA.

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10. The Appellant/Claimant has stated that Pankaj along with his wife Nisha & daughter is living on the second floor of the Jhuggi No. A-87 and regarding that Pankaj has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 390 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Probir and children Prothisha & Parkriti is living on the first floor of the Jhuggi No. A-87. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-87 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 706 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. It is pointed out that all the three appeals bearing Appeal No. 390 of 2023, Appeal No. 603 of 2023 and Appeal No. 706 of 2023 shall be decided separately on their individual merit.

13. DDA has furnished the survey records along with five video clips of Jhuggi No. A-87. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 01.05.2023 wherein the Appellant/Claimant has stated that three video clips pertain to the ground floor in which his mother Taru Lata is seen and further, her room & kitchen are also seen of the ground floor. Two video clips pertain to the second floor in which the Appellant/Claimant Pankaj is seen and further, his room & kitchen are also seen. There is no video clip of the first floor but the photograph (Annexure-H) taken by the survey team is available on the file in which she is seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a three storey Jhuggi No. A-87 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the three storey Jhuggi No. A-87 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purposes.

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

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

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/41/36.1/1066 dated 07.11.2022.

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

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

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

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

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

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

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

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is entitled to claim allotment against the first floor of the said Jhuggi as per the policy guidelines issued by DDA.

21. The Appellant/ Claimant has 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.

22. The Appellant/Claimant has tendered her Voter ID Card No. ARE 2064961 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 and Voter List of the year 2019 (Annexure-L).

23. It is pointed out that the Voter ID Card No. ARE 2064961 (Annexure-A) has been issued on 25.08.2015, much after the cut off date of 01.01.2015 accordingly the question of her name appearing in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. It is pointed out that the name of the Appellant/Claimant appears at Sl. No. 494 in the Voter List of the year 2015 (Annexure-K) and at Sl. No. 100 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-87 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the Ration Card (Annexure-I), which has been issued in favour of her mother-in-law, Taru Lata Mandal, on 31.05.2014 but the name of the Appellant/Claimant is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-87 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1413699 (Annexure-D), Aadhar Card (Annexure-E), Driving License (Annexure-F) & PAN Card (Annexure-H) of her husband Probir and Electricity Bill (Annexure-J).

26. It is pointed out that the Voter Id Card No. ARE 1413699 (Annexure-D) has been issued on 22.02.2009, much prior to the cut off date of 01.01.2015. The Driving License (Annexure-F) has been issued on27.01.2017, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-J) shows that the connection has been taken by her father-in-law,Swapan Mandal, on 19.05.2008 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. A-87 regarding

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which she is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

28. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A087 regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/41/36.1/1066 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

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

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

Appeal No: 319 of 2023

Date of Institution: 28.11.2022

Date of Order: 17.07.2023

Present: Appellant/ Claimant Satender Kumar S/o Madan Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-82, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-82 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly

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communicated its order bearing No. 385/41/1.1/1047 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 319 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 28.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-82 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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8. The statement of the Appellant/Claimant, Satender kumar, has been recorded before us on 28.04.2023 wherein he has stated that his parents, Madan lal & Gyanti, are having four sons, Satender, Parmanand, Leelu & Jitender and one daughter Mamta. All the children are married. Mamta is living in her matrimonial home at Laxminagar. Parmanand is married with Sumitra and having one son Alok. Lilu is married with Nandni and having two sons, Aditya & Vinit. Jitender is married with Archna. Satinder (Appellant/Claimant) is married with Kiran and having three children Palak, Shrishti & Sidant.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. A-82 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the first floor and thereafter, another iron ladder is placed on the first floor for going to the second floor.

10. The Appellant/Claimant has stated that his parents, Madan Lal & Gyanti, along with the families of Parmanand and Jitender are living on the ground floor of the Jhuggi No. A-82 and regarding that DDA has made allotment in favour of his mother Gyanti. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Lilu along with his wife Nandani and both the sons, Aditya & Vinit is living on the second floor of Jhuggi No. A-82 and has sought allotment from DDA against the second floor of the Jhuggi No. A-82 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal. No. 542 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Kiran and all the three children Palak, Shristi & Sidant is living on the first floor of the Jhuggi No. A-82. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. A-82 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 319 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-L in support of his claim and prayed that DDA be directed to make allotment in his favour.

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13. It is pointed out that both the Appeals bearing Appeal No. 319 of 2023 and Appeal No. 542 of 2023 shall be decided separately on their individual merits.

14. DDA has furnished the survey record along with seven video clips pertaining to Jhuggi No. A-82. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.04.2023 in which the Appellant/Claimant has stated that two video clips pertain to the ground floor of Jhuggi No. A-82 in which his mother Gyanti is seen and her room & kitchen are also seen and a pucca staircase going from the ground floor to the first floor is also seen. In the next three video clips, the Appellant/Claimant Satender Kumar is seen on the first floor of Jhuggi No. A-82 and further, his room & kitchen are also seen. The next two video clips pertain to the second floor of the Jhuggi No. A-82 and Lilu is seen on the second floor and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey Jhuggi No. A-82 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

15. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-82 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

16. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut- off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/41/1.1/1047 dated 07.11.2022.

19. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"**Part-B**

<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of

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India, either in his/her own name or in the name of any member of 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."

20. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear

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in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said Jhuggi as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1076405 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

23. It is pointed out that the Voter ID Card No. CXY 1076405 (Annexure-A) has been issued on 07.03.2002 much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 400 in the Voter List of the year 2014 (Annexure-K) and at Sl. No. 533 in the Voter List of the year 2019 (Annexure-L). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-246 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-E) which has been issued in favour of his father Madan Lal on 26.02.2009 in which the name of the Appellant/Claimant is mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor of Jhuggi bearing No. A-82 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the

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eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

25. The Appellant/Claimant has also tendered his Driving License (Annexure-D), the Electricity Bill (Annexure-F), the Passbook of SBI (Annexure-G) as well as Voter ID Card No. ARE 1134014 (Annexure-H), Aadhar Card (Annexure-I) & PAN Card (Annexure-J) of his wife Kiran.

26. It is pointed out that the Driving License of the Appellant/Claimant (Annexure-D) has been issued on 29.08.2002. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by his father Madan Lal on 08.07.2008, thereby, showing that the Appellant/Claimant was not having electricity connection on the first floor of the Jhuggi No. A-82 regarding which he is claiming allotment from DDA. The Passbook of SBI (Annexure-G) shows that the Appellant/Claimant had opened the account on 20.09.2006. The Voter ID Card No. ARE 1134014 (Annexure-H) of his wife Kiran has been issued on 27.10.2008.

27. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-82 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-82 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the

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eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/41/1.1/1047 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 329 of 2023

Date of Institution: 28.11.2022

Date of Order: 17.07.2023

Present: Appellant/ Claimant Chittrapal S/o Deen Dayal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-325, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-325 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the

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Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/70.1/1221 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 329 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 26.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-325 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Chattar Pal, has been recorded before us on 26.04.2023 wherein he has stated that his parents, Din Dayal & Raj Kumari, are having two sons, Ram Pal & Chattar Pal and two daughters, Nirmala & Champa. All the Children are married. Both the daughters Nirmala & Champa are living in their respective matrimonial homes in Delhi. Ram Pal is married with Malti and having three children Akash, Kanchan & Abhijit and they are living on rent. Chattar Pal (Appellant/Claimant) is married with Ram Rati and having two children, Chetna & Love.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. B-325 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Din Dayal & Raj Kumari, are living on the ground floor of the Jhuggi No. B-325 and regarding that DDA has made allotment in favour of his mother Raj Kumari. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Ram Rati and both the children Chetna & Love is living on the first floor of the Jhuggi No. B-325. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. B-325 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 329 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-N, and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with eight video clips pertaining to Jhuggi No. B-325. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 26.04.2023 wherein he has stated that the four video clips pertain to the ground floor of Jhuggi No. B-325 in which his mother Raj Kumari is seen and further, her room & kitchen are also seen. The next four video clips pertain to the first floor of Jhuggi No. B-325 in which a pucca staircase going from the ground floor to the first floor is seen and further, the Appellant/Claimant, Chattar Pal, is seen and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. B-325 was in existence

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in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. C-433 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant has been using the first floor of the said Jhuggi No. B-325 for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/6/70.1/1221 dated 07.11.2022.

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16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.

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- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which

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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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1070341 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2013 (Annexure-M) and Voter List of the year 2019 (Annexure-N).

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23. It is pointed out that the Voter ID Card No. CXY 1070341 (Annexure-A) has been issued on 06.03.2002, much prior to the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 113 in the Voter List of the year 2013 (Annexure-M) and at Sl. No. 272 in the Voter List of the year 2019 (Annexure-N). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2013 & also in the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-325 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered three Ration Cards (Annexure-J to Annexure-L). The old Ration Card (Annexure-J) has been issued in favour of his father Deena Dayal on 22.06.2002 and the name of the Appellant/Claimant has been mentioned therein. The second Ration Card (Annexure-K) has been issued in favour of his father Deena Dayal on 29.03.2010 and the name of the Appellant/Claimant has been mentioned therein. The third Ration Card (Annexure-L) has been issued in favour of his mother Raj Kumari and the name of the Appellant/Claimant has been mentioned therein but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-325 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Driving License (Annexure-D), Voter ID Card No. ARE 1153618 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Ram Rati as well as Aadhar Cards (Annexure-G & Annexure-H) of his children Chetna & Love respectively and the Electricity Bill (Annexure-I).

26. It is pointed out that Driving License (Annexure-D) has been issued on 26.07.2007. The Voter ID Card No. ARE 1153618 (Annexure-E) of his wife Ram Rati has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The Electricity Bill (Annexure-I) shows that the connection has been taken by his father Din Dayal on 28.05.2008 on the ground floor of the Jhuggi No. B-325, thereby, showing that the Appellant/Claimant was

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not having electricity connection on the address of the first floor of the Jhuggi No. B-325 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-325 regarding which he is claiming allotment from DDA. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-325 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2013 and also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/6/70.1/1221 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High

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Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 456 of 2023

Date of Institution: 30.11.2022

Date of Order: 17.07.2023

Present: Appellant/ Claimant Kajali Rani W/o Arun D/o Keshab Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No.C-433, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-433 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the

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Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/57.1/1016 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 456 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 12.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-433 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant Kajali Rani has been recorded before us on 12.5.2023 wherein she has stated that her parents, Keshab Lal & Darpana, are having one son, Bablu and two daughters, Kajali Rani & Rupali. Keshab Lal had expired about seven years ago. All the children are married. Rupali is married with Kamal and she is living in her matrimonial home in R.K. Puram, Delhi. Bablu is married with Deepa and having two children; Joy & Nishika. Kajali Rani (Appellant/Claimant) is married with Arun.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. C-433 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her mother Darpana along with the family of Bablu is living on the ground floor of the Jhuggi No. C-433 and regarding that DDA has made allotment in favour of her mother Darpana. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Arun is living on the first floor of the Jhuggi No. C-433. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-433 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 456 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey records along with three video clips of Jhuggi No. C-433. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 12.05.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor in which her mother Darpana is seen and further, her room & kitchen are also seen. The third video clip pertains to the first floor of the Jhuggi No. C-433 in which the Appellant/Claimant Kajali Rani is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a double storey Jhuggi No. C-433 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. C-433 in Bhoomiheen

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Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant has been using the first floor of the said Jhuggi No. C-433 for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/57.1/1016 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation</u>**

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and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.

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- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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17. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground

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floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Voter List of the year 2014 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

23. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B) and both the Voter ID Cards are bearing are same number i.e. ARE 1415371. The first Voter ID Card (Annexure-A) has been issued on 22.02.2002 and the second Voter ID Card (Annexure-B) has been issued on 17.03.2015. The name of the Appellant/Claimant appears at Sl. No. 557 in the Voter List of the year 2014 (Annexure-H) and at Sl. No. 565 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no

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hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in the voter list of the year's 2014 & also in the year of survey.

24. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-433 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered the old Ration Card (Annexure-F), which has been issued on 22.06.2002 in favour of her father Keshab Lal and the name of the Appellant/Claimant has been mentioned therein. The Appellant/Claimant has also tendered the Application dated 08.11.2013 (Annexure-G) for issuance of Ration card. It is pointed out that no Ration Card has been issued till date. The Application dated 08.11.2013 (Annexure-G) is of not material because the policy guidelines issued by DDA requires that the dwellers claiming allotment against the upper floor must possess a separate Ration Card on the cutoff date of 01.01.2015 and merely making of application is of no relevance. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-433 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered the Aadhar Card (Annexure-D) of her husband Arun, Passbook of Union Bank of India (Annexure-E) and Electricity Bill (Annexure-J).

26. It is pointed out that the Passbook of Union Bank of India (Annexure-E) shows that the Appellant/Claimant had opened the account on 15.02.2017. The Electricity Bill (Annexure-J) shows that the connection has been taken by her mother Darpana on 17.12.2021 on the address of ground floor of the Jhuggi no. C-433 thereby showing that the Appellant/Claimant was not having a separate connection on the address of first floor of Jhuggi No. C-433 regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in

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holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in the voter list of the year's 2014 and also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/57.1/1016 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 542 of 2023

Date of Institution: 05.12.2022

Date of Order: 17.07.2023

Present: Appellant/ Claimant Lilu Kumar S/o Madan Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-82, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-82 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/41/1.2/1046 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 542 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

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4. The statement of the Appellant/Claimant has been recorded before us on 28.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-82 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Lilu kumar, has been recorded before us on 28.04.2023 wherein he has stated that his parents, Madan lal & Gyanti, are having four sons, Satender, Parmanand, Leelu & Jitender and one daughter Mamta. All the children are married. Mamta is living in her matrimonial home at Laxminagar. Parmanand is married with Sumitra and having one son Alok. Jitender is married with Archna. Satinder is married with Kiran and having three children Palak, Shrishti & Sidant. Lilu (Appellant/Claimant) is married with Nandni and having two sons, Aditya & Vinit.

9. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. A-82 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the first floor and thereafter, another iron ladder is placed on the first floor for going to the second floor.

10. The Appellant/Claimant has stated that his parents, Madan Lal & Gyanti, along with the families of Parmanand and Jitender are living on the ground floor of the Jhuggi No. A-82

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and regarding that DDA has made allotment in favour of his mother Gyanti. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Satender along with his wife Kiran & three children Palak, Shrishti & Sidant is living on the first floor of Jhuggi No. A-82 and has sought allotment from DDA against the first floor of the Jhuggi No. A-82 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal. No. 319 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Nandni & both the sons, Aditya & Vinit is living on the second floor of the Jhuggi No. A-82. The Appellant/Claimant has sought allotment from DDA against the second floor of the Jhuggi No. A-82 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 542 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is pointed out that both the Appeals bearing Appeal No. 319 of 2023 and Appeal No. 542 of 2023 shall be decided separately on their individual merits.

14. DDA has furnished the survey record along with seven video clips pertaining to Jhuggi No. A-82. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 28.04.2023 in which the Appellant/Claimant has stated that two video clips pertain to the ground floor of Jhuggi No. A-82 in which his mother Gyanti is seen and her room & kitchen are also seen and a pucca staircase going from the ground floor to the first floor is also seen. In the next three video clips, his brother Satender Kumar is seen on the first floor of Jhuggi No. A-82 and further, his room & kitchen are also seen. The next two video clips pertain to the second floor of the Jhuggi No. A-82 and the Appellant/Claimant Lilu is seen on the second floor and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey Jhuggi No. A-82 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

15. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. A-82 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the second floor of the said Jhuggi for residential purposes.

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16. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/41/1.2/1046 dated 07.11.2022.

19. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

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20. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

22. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

23. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

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(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

24. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

25. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

26. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

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27. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

29. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

30. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

31. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

32. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1134006 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

33. It is pointed out that the Voter ID Card No. ARE 1134006 (Annexure-A) has been issued on 19.02.2014, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 403 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 536 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-

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off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

34. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-82 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-D) which has been issued in favour of his father Madan Lal on 26.02.2009 in which the name of the Appellant/Claimant is mentioned. But the fact remains that the Appellant/Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 on the address of his Jhuggi on the second floor of Jhuggi bearing No. A-82 regarding which he is claiming allotment from DDA. Therefore, Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

35. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-E) as well as Voter ID Card No. ARE 2201093 (Annexure-F), Aadhar Card (Annexure-G) & PAN Card (Annexure-H) of his wife Nandani and Pass Book of Bank of Maharashtra (Annexure-I).

36. It is pointed out that the Electricity Bill (Annexure-E) shows that the electricity connection has been taken by his father Madan Lal on 08.07.2008, thereby, showing that the Appellant/Claimant was not having electricity connection on the second floor of the Jhuggi No. A-82 regarding which he is claiming allotment from DDA. The Voter ID Card No. ARE 2201093 (Annexure-F) of his wife Nandani has been issued on 28.04.2023, much after the cutoff date of 01.01.2015. The Passbook of Bank of Maharashtra (Annexure-I) shows that the Appellant/Claimant had opened the account on 28.12.2012. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

37. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-82 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper

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floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/41/1.2/1046 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

39. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 339 of 2023

Date of Institution: 28.11.2022

Date of Order: 18.07.2023

Present: Appellant/ Claimant Mamta W/o Biswanath D/o Sunil Bala

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-127, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-495 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant

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for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/0071.2-A/1298 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 339 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-127 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"In case of Upper Floor only First Floor is considered for alternative allotment"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of

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survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Mamta, has been recorded before us on 27.04.2023 wherein she has stated that her in-laws, Shambhu Chand & Sumitra, are having three sons, Madhubala, Raju Bala & Biswanath and two daughters, Bharti & Arti. Shambhu Chand had expired about twenty years ago and Sumitra had died about 8-9 years ago. Both the daughters are married and living in their respective matrimonial homes in Badarpur, Delhi & Tughalakabad, Delhi, respectively. Madhubala is married with Lalita and having two children, Rahul & Mina. Raju Bala is married with Renu and having four children, Rajesh, Priyanka, Dipika & Monika. Biswanath is married with Mamta (Appellant/Claimant) and having two children, Kavita & Manoj.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi bearing No. B-127 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that Madhubala along with his wife Lalita and children is living on the ground floor of Jhuggi No. B-127 and regarding that DDA has made allotment in favour of Lalita. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Raju Bala along with his wife Renu is living on the first floor of the Jhuggi No. B-127 and regarding that DDA had made allotment in favour of Renu. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Biswanath and both the children Kavita & Manoj is living on the second floor of the Jhuggi No. B-127. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. B-127 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 339 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished the survey records along with twenty three video clips of Jhuggi No. B-127. The video clips were played before the Appellant/Claimant when her

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statement was recorded before us on 27.04.2023 wherein the Appellant/Claimant has stated that seven video clips pertain to the ground floor of Jhuggi No. B-127 in which Lalita w/o Madhubala is seen and further, her room & kitchen are also seen. The next six video clips pertain to the first floor of Jhuggi No. B-127 in which a pucca staircase going from the ground floor to the upper floor is seen and further Renu is seen and her room & kitchen on the first floor is also seen. The next ten video clips pertain to the second floor of Jhuggi No. B-127 in which the Appellant/Claimant Mamta is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a three storey Jhuggi No. B-127 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

13. Accordingly, we have no hesitation in holding that the three storey Jhuggi No. B-127 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with her family is using the second floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in

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the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/0071.2-A/1298 dated 07.11.2022.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of

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India, either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground

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Floor) AS PER DDA POLICY

18. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

> *"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."*

20. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only

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connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

21. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

> *"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-*
>
> *(1) words importing the masculine gender shall also be taken to include females; and*
>
> *(2) words in the singular shall include the plural, and vice versa.*

22. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

23. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the

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definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

24. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

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26. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

27. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

28. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

29. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

30. The Appellant/Claimant has tendered her Voter ID Card bearing No. CXY 1079011 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

31. It is pointed out that the Voter ID Card No. CXY 1079011 (Annexure-A) has been issued on 09.02.2012, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1011 in the Voter List of the year 2015 (Annexure-I) and at Sl. No. 1081 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having

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a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in the voter list of the year's 2015 & also in the year of survey.

32. 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 second floor of the Jhuggi No. B-127 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her Ration Card No. 077002181191 (Annexure-D), which has been issued in her favour but the date of issuance is not mentioned. The report (Annexure-K) downloaded from internet shows that the Appellant/Claimant had made the application on 20.06.2015 and the Ration Card No. 077002181191 (Annexure-D) has been issued on 15.12.2019. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. B-127 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered the Passbook of PNB (Annexure-E), Voter ID Cards (Annexure-F & Annexure-F/1) of her husband Biswanath as well as Electricity Bill (Annexure-G) and Passbook of UBI of Biswanath (Annexure-H).

34. It is pointed out that the date of opening the account has not been mentioned in the Passbook of PNB (Annexure-E). The Electricity Bill (Annexure-G) shows that the connection has been taken by her husband Biswanath on 18.12.2017, much after the cut off date of 01.01.2015. The Passbook of UBI (Annexure-H) shows that the account has been opened by her husband Biswanath on 15.12.2014. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-F & Annexure-F/1) of her husband Biswanath. The first Voter ID Card is bearing No. DL/03/035/24347 (Annexure-F) has been issued on 01.02.1995 and the second Voter ID Card is bearing No. ARE 1549111 (Annexure-F-1) has been issued on 23.06.2012. Both the Voter ID Cards have been issued much prior to the cut off date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further

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she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-127 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/0071.2-A/1298 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

37. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 383 of 2023

Date of Institution: 29.11.2022

Date of Order: 18.07.2023

Present: Appellant/Claimant Kanan Biswas W/o Kankan D/o Kartik Haldar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-480, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-480 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/81.2/973 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 383 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 20.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-480 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Kankan Biswas, has been recorded before us on 20.04.2023 wherein she has stated that her in-laws, Promatha & Kamla, are having

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two sons Kankan & Sujan and three daughters, Meera, Suro & Sulekha. Her father-in-law, Promatha Biswas has expired on 25.12.2020. All the children are married. Meera was married with Tapas and she was living in her matrimonial home situated in A-Block, Bhoomiheen Camp but she has expired. Suro is married with Ninanjan and she is living in her matrimonial home in Bihar. Sulekha is married with Ratan and having two children, Tapas & Jyoti. Sujan is married with Supriya and having two children, Subu & Sweta. Kankan is married with Kanan (Appellant/Claimant) and having two children, Sidharth & Konika.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B-480 in Bhoomiheen Camp. The ground floor comprises of one room whereas the first and second floor comprises of two rooms each. Pucca staircase is constructed outside in gali for going to first floor and further an iron ladder is placed on first floor for going to the second floor.

9. The Appellant/Claimant has stated that her in-laws, Promatha (up till his death on 25.12.2020) & Kamala, along with the family of their son Sujan are living on the ground floor of Jhuggi No. B-480 and her mother-in-law, Kamla, has sought allotment against the ground floor of Jhuggi No. B-480 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 273 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband, Kankan & children is living on the first floor whereas her sister-in-law, Sulekha, along with her family is living on the second floor but at the time of conducting the survey, she was not present but her husband was present and he was forced by Sulekha and other family members to get the survey conducted on the second floor and thus Sulekha managed to get the survey conducted on the first floor of Jhuggi No. B-480 inspite of the fact that Sulakha was living on the second floor.

11. The Appellant/Claimant has stated that Sulekha was living on the second floor but by making misrepresentation she had submitted representation to seek allotment from DDA against the first floor. However, her claim was rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 274

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of 2023 before the Appellate Authority for redressal. Filing of Appeal No. 274 of 2023 by Sulekha is not disputed by DDA.

12. The Appellant/Claimant has stated she along with her family is living on the first floor of the Jhuggi No. B-480 and has sought allotment against the first floor of the said Jhuggi No. B-480 but by manipulation she has been shown to be claiming allotment against the second floor of Jhuggi No. B-480 and her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 383 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that her claim be considered against the first floor of Jhuggi No. B-480 whereas the claim of Sulekha be considered against the second floor of Jhuggi No. B-480 and accordingly DDA be directed to make allotment in her favour against the first floor of Jhuggi No. B-480.

13. It is pointed out that all the three the Appeals bearing Appeal No. 273 of 2023, Appeal No. 274 of 2023 & Appeal 383 of 2023 shall be decided separately on their respective merits.

14. DDA has furnished the survey record along with ten video clips pertaining to Jhuggi No. B-480. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 20.04.2023 wherein she has stated that three videos pertain to ground floor of the Jhuggi No. B-480 in which her mother-in-law, Kamla, and sister-in-law, Supriya, are seen and room & kitchen of her mother-in-law is also seen. In the next two videos, Sulekha is seen and her room & kitchen are also seen on the first floor and an iron ladder placed in the room on the first floor for going to the second floor is also seen. In the next five videos, Kankan (husband of the present Appellant/Claimant is seen) is seen standing in the room on the second floor of the Jhuggi No. B-480 and the room & kitchen of the present Appellant/Claimant are also seen and further her husband is heard stating that he along with his wife and two children is living on the second floor and the second floor is used for living purposes and also for cooking food.

15. The Appellant/Claimant has categorically stated that Sulekha has got the survey conducted on the first floor in collusion with the family members & the survey team and by way of coercion as her husband was compelled to get the survey conducted on

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the second floor and Sulekha had managed to get the survey/videography conducted against the first floor. The Appellant/Claimant has categorically admitted that in the video clips Sulekha is seen standing on the first floor but claimed the room as well as the articles lying therein belongs to her (Appellant/Claimant). The Appellant/Claimant has also specifically admitted that her husband is heard stating that he along with his wife and two children is living on the second floor and the second floor is used for living purposes and also for cooking food.

16. The survey records placed on file shows that the Appellant/Claimant has sought allotment from DDA against the second floor of the Jhuggi No. B-480. But when she made statement before us on 20.04.2023 she has tried in futility to change her stand by claiming that she was in fact living on the first floor and Sulekha was living on the second floor but at the time of survey her husband was forced to get the survey conducted on the second floor. However, as mentioned above in two videos, Sulekha is seen on the first floor and further her room & kitchen are also seen on the first floor. And further in five videos, Kankan, who is the husband of the present Appellant/Claimant, is seen standing in the room on the second floor of the Jhuggi No. B-480 and their room & kitchen are also seen and further her husband is heard stating that he along with his wife and two children is living on the second floor and the second floor is used for living purposes and also for cooking food.

17. Thus there is no cogent material placed on file to corroborate the statement of the present Appellant/Claimant that her husband was forced by Sulekha and other family members to get the survey conducted on the second floor and thus Sulekha managed to get the survey conducted on the first floor of Jhuggi No. B-480 by playing fraud & coercion even though she was living on the second floor. There is no material on file except the self-serving statement of the Appellant/Claimant to show that Sulekha has filed wrong claim to seek allotment from DDA against the first floor of Jhuggi No. B-480 and in execution of her conspiracy Sulekha by making misrepresentation to the survey team has got the survey conducted against the first floor and she had also forced the husband of the Appellant/Claimant to get the survey conducted on the second floor. Had it been so the Appellant/Claimant would have made complaint to higher authorities of DDA but nothing of this sort was done by the present Appellant/Claimant. Further, as already pointed out in the video prepared by the survey team the husband of the present Appellant/Claimant is also heard of making

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voluntary statement without any duress or coercion before the survey team and he is heard stating that he along with his wife and two children is living on the second floor and the second floor is used for living purposes and also for cooking food by them.

18. The facts cannot be lost sight that the Appellant/Claimant has made representation to DDA for seeking allotment against the second floor of Jhuggi No. B-480 and further her husband has got the survey conducted against the second floor of Jhuggi No. B-480 and it speaks volumes against the futile attempt made by the Appellant/Claimant to claim allotment from DDA by hook or crook by concocting a wrong & false story that her claim be considered against the first floor of Jhuggi No. B-480. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. B-480 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

19. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. B-480 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

20. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

21. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in her favour.

22. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in

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the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/81.2/973 dated 07.11.2022.

23. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

24. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before

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01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

25. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

> *"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."*

26. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

27. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the

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dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

> *"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-*
> *(1) words importing the masculine gender shall also be taken to include females; and*
> *(2) words in the singular shall include the plural, and vice versa.*

28. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

29. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment

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against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

30. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

31. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

32. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

33. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued

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by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

34. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

35. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

36. The Appellant/Claimant has tendered her Voter ID Card bearing No. CXY 1347434 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

37. It is pointed out that the Voter ID Card No. CXY 1347434 (Annexure-A) has been issued on 26.10.2002, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 620 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 681 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

38. 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 upper floor of the Jhuggi No. B- 480 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her joint Ration Card (Annexure-E), which has been issued in favour of her mother-in-law, Kamla Biswas, on 24.02.2015 and the name of the Appellant/Claimant has also been mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. B- 480 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines

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issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

39. The Appellant/Claimant has tendered her Passbook of PNB (Annexure-D), Voter ID Card No. ARE 1157601 (Annexure-F) & Aadhar Card (Annexure-G) of her husband Kankan Biswas and the Electricity Bill (Annexure-H).

40. It is pointed out that the Passbook of PNB (Annexure-D) shows that the account has been opened by the Appellant/Claimant on 02.03.2020, much after the cut off date of 01.01.2015. The Voter ID Card No. ARE 1157601 (Annexure-F) has been issued on 27.10.2008. The Electricity Bill (Annexure-H) shows that the connection has been taken by her father-in-law, Promatha Biswas, on 28.08.2008 on the ground floor of Jhuggi No. B-480 thereby showing that the Appellant/Claimant was not having a separate connection on the second floor of Jhuggi No. B-480 regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

41. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. B-480 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further she was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria

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as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/81.2/973 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

43. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 273 of 2023

Date of Institution: 25.11.2022

Date of Order: 18.07.2023

Present: Appellant/Claimant Kamla W/o Promatha D/o Abhilas Biswas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-480, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-480 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/081.G/971 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 273 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 20.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is pointed out at the very outset that the material placed on file as well as the survey records furnished by DDA shows that the Jhuggi No. B-480, Bhoomiheen Camp of the Appellant/Claimant was found to exist and all the requisite documents, except Voter ID Card, were found and accordingly her claim was rejected on the sole ground that her voter ID card was not found to have been verified.

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 whether she is entitled to claim allotment against Jhuggi bearing No. B-480 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Kamla Biswas, has been recorded before us on 20.04.2023 wherein she has stated that she was married with Promatha Biswas and having two sons Kankan & Sujan and three daughters, Meera, Suro & Sulekha. Her husband Promatha Biswas had expired on 25.12.2020 and his Death Certificate is Annexure-F. All the children are married. Meera was married with Tapas and she was living in her matrimonial home situated in A-Block, Bhoomiheen Camp but she has expired. Suro is married with Ninanjan and she is living in her matrimonial home in Bihar. Sulekha is married with Ratan and having two children, Tapas & Jyoti. Sujan is

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married with Supriya and having two children, Subu & Sweta. Kankan is married with Kanan and having two children, Sidharth & Konika.

9. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B-480 in Bhoomiheen Camp. The ground floor comprises of one room whereas the first and second floor comprises of two rooms each. A Pucca staircase is constructed outside in gali for going to first floor and further an iron ladder is placed on first floor for going to the second floor.

10. The Appellant/Claimant has stated that her daughter Sulekha along with her husband Ratan & children is living on the first floor and regarding that Sulekha has sought allotment but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 274 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that her son Kankan along with his wife Kanan & children is living on the second floor and regarding that Kanan has sought allotment but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 383 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Promatha (uptil his death on 25.12.2020) along with the family of her son Sujan is living on the ground floor of Jhuggi No. B-480. The Appellant/Claimant, Kamla, has sought allotment against the ground floor of Jhuggi No. B-480 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 273 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-Z, in support of her claim and prayed that DDA be directed to make allotment in her favour against the ground floor of Jhuggi No. B-480.

13. It is pointed out that all the three the Appeals bearing Appeal No. 273 of 2023, Appeal No. 274 of 2023 & Appeal 383 of 2023 shall be decided separately on their respective merits.

14. DDA has furnished the survey record along with ten video clips pertaining to Jhuggi No. B-480. The video clips were played before the Appellant/Claimant when her

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statement was recorded before us on 20.04.2023 wherein she has stated that three videos pertain to ground floor of the Jhuggi No. B-480 in which she (Kamla-Appellant/Claimant) and her daughter-in-law, Supriya W/o Sujan, are seen with their children and room & kitchen on the ground floor of the Jhuggi No. B-480 are also seen. In the next two videos, Sulekha (Appellant/Claimant of Appeal No. 274) is seen and her room & kitchen are also seen on the first floor and an iron ladder placed in the room on the first floor for going to the second floor is also seen. In the next five videos, Kankan, who is the husband of Kanan (Appellant/Claimant of Appeal No. 383) is seen standing in the room on the second floor of the Jhuggi No. B-480 and the room & kitchen are also seen and further Kankan is heard stating that he along with his wife and two children is living on the second floor and the second floor is used for living purposes and also for cooking food.

15. It is pointed out that the survey team has prepared the survey report annexed with this file thereby showing that the last survey was conducted on 17.08.2019 of the Jhuggi of the Appellant/Claimant, Kamla Biswas, and her son Sujan Biswas along with her wife Supriya Biswas were found to be living with her as per the Family Member Details given therein and further it has made a remark **"Family lives in ground floor separately"** *(the spelling and formation of sentence ignored by us)* and it corroborates that the Appellant/Claimant along with the family of her son Sujan Biswas was found to living on the ground floor of the Jhuggi No. B-480, Bhoomiheen Camp.

16. Here it pertinent to mention that in Para No. 1 of the proceedings conducted by EDC it is pointed out that in the survey records of DDA it is mentioned that the upper floor Jhuggi of the Appellant/Claimant was found to exist. But there seems to be some clerical/typographical mistake because in the survey records placed before us along with the photographs prepared by the survey team it is mentioned that "the Appellant/Claimant along with the family of her son Sujan Biswas was found to living on the ground floor of the Jhuggi No. B-480, Bhoomiheen Camp and it was also found to be used for residential purposes". Thus the statement of the Appellant/Claimant as well as the video clips furnished by DDA as well as the survey records placed before us along with the photographs prepared by the survey team shows that the Jhuggi of the Appellant/Claimant regarding which survey was conducted by DDA's Survey Team is a triple storey Jhuggi and the Appellant/Claimant, Kamla Biswas, along with the family of her son Sujan Biswas was found to living on the ground floor of the Jhuggi No. B-480,

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Bhoomiheen Camp and the Appellant/Claimant Kamla Biswas along with her family has been using the said Jhuggi for residential purposes.

17. There is nothing to disbelieve the statement of the Appellant/Claimant that her Jhuggi No. B-480, Bhoomiheen Camp is a triple storey structure. The ground floor comprises of one room whereas the first and second floor comprises of two rooms each. A Pucca staircase is constructed outside in gali for going to first floor and further an iron ladder is placed on first floor for going to the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the Jhuggi No. B-480 of the Appellant/Claimant is a triple storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the ground floor of the said Jhuggi No. B-480 is a separate & independent dwelling unit and the same is used by the Appellant/ Claimant & her family for residential purposes.

18. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. B-480 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & her family has been using the ground floor of the said Jhuggi No. B-480 for residential purposes.

19. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. As per our discussion above, the Jhuggi No. B-480 of the Appellant/Claimant is found to be a triple storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the ground floor of the said Jhuggi No. B-480 is a separate & independent dwelling unit and the same is used by the Appellant/ Claimant & her family for residential purposes and accordingly the parameters for the ground floor are applicable. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the said Jhuggi bearing No. B-480 as per the policy guidelines issued by DDA.

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20. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Z, in support of her claim and prayed that DDA be directed to make allotment in her favour.

21. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

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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.

<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."

22. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment

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against the ground floor of the Jhuggi bearing No. B-480 as per the policy guidelines issued by DDA.

24. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Z, in support of her claim and prayed that DDA be directed to make allotment in her favour.

25. The Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A, Annexure-B & Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E), Voter List of the year 2012 (Annexure-U), Voter List of the year 2013 (Annexure-V), Voter List of the year 2014 (Annexure-W) Voter List of the year 2015 (Annexure-X), Voter List of the year 2018 (Annexure-Y) and Voter List of the year 2020 (Annexure-Z).

26. It is pointed out that all the documents, Annexure- A to Annexure-D and Annexure-U to Annexure-Z, have been issued on the address of Jhuggi No. B-480 regarding which the Appellant/Claimant has claimed allotment from DDA.

27. It is also pertinent to point out that the Appellant/Claimant is having three Voter ID Cards (Annexure-A, Annexure-B & Annexure-C). The first Voter ID Card is bearing number DL/03/035/246093 (Annexure-A), which has been issued on 02.08.2003, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has stated that the old Voter ID Card (Annexure-A) was discontinued and therefore the Election Commission had issued the second Voter ID Card bearing number ARE 1157577 (Annexure-B) on 27.10.2008, much prior to the cut off date of 01.01.2015. This shows that both the Voter ID Cards (Annexure-A & Annexure-B) of the Appellant/Claimant have been issued much prior to the cut off date of 01.01.2015.

28. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 540 in the Voter List of the year 2012 (Annexure-U), at Sl. No. 540 in the Voter List of the year 2013 (Annexure-V), at Sl. No. 616 in the Voter List of the year 2014 (Annexure-W), at Sl. No. 647 in the Voter List of the year 2015 (Annexure-X) and at Sl. No. 705 in the Voter List of the year 2018 (Annexure-Y). In all the voter lists (Annexure-U to Annexure-Y) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1157577 (Annexure-B) and the address is mentioned to be Jhuggi No. B-480 regarding which the Appellant/Claimant has claimed allotment from DDA.

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29. It is also pointed out that the third Voter ID Card bearing number ARE 2280618 (Annexure-C) of the Appellant/Claimant has been issued on 25.07.2019 and the name of the Appellant/Claimant appears at Sl. No. 1292 in the Voter List of the year 2020 (Annexure-Z) and in that the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 2280618 (Annexure-C) and the address is mentioned to be Jhuggi No. B-480 regarding which the Appellant/Claimant has claimed allotment from DDA. The Appellant/Claimant has failed to explain the reasons for getting the third Voter ID Card bearing number ARE 2280618 (Annexure-C) issued in her favour when she was having a valid Voter ID Card bearing number ARE 1157577 (Annexure-B) issued on 27.10.2008 and she has been using the same for casting her vote continuously from 2012 to 2018 as reflected in the Voter List of the year 2012 (Annexure-U), Voter List of the year 2013 (Annexure-V), Voter List of the year 2014 (Annexure-W) Voter List of the year 2015 (Annexure-X) and Voter List of the year 2018 (Annexure-Y). Furthermore, the third Voter ID Card bearing number ARE 2280618 (Annexure-C) issued on 25.07.2019 has been used by her to cast her vote in the year 2020 as reflected in the Voter List of the year 2020 (Annexure-Z).

30. The material placed on file shows that the second Voter ID Card bearing number ARE 1157577 (Annexure-B) issued on 27.10.2008 and it remained operative till 2019 but it was misplaced and accordingly in its place the Appellant/Claimant got a new Voter ID Card No. ARE 2280618 (Annexure-C) issued on 25.07.2019. There is no doubt that when the Voter ID Card No. ARE 1157577 (Annexure-B) was misplaced then the proper course was to get the duplicate issued. But it seems that the Appellant/Claimant was ill advised to get a new Voter ID Card issued in her favour instead of getting the duplicate issued against the lost Voter ID Card No. ARE 1157577 (Annexure-B). The Appellant/Claimant is a widower, illiterate & senior citizen as her date of birth is recorded to be 08.11.1940 in the Aadhar Card (Annexure-D) & PAN Card (Annexure-E) and accordingly not following the correct procedure of getting the duplicate issued does not forfeit the legal right accrued to her especially when the material placed on file shows that the Appellant/Claimant has been continuously living in Jhuggi No. B-480 regarding which she has been claiming allotment from DDA and further she had used the old Voter ID Card No. ARE 1157577 (Annexure-B) to cast her vote in the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year 2018 as reflected in the voter lists (Annexure-U to Annexure-Y).

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31. But the fact remains that the Appellant/Claimant was having a Voter ID Card, which was bearing number DL/03/035/246093 (Annexure-A) and that was issued on 02.08.2003, much prior to the cut off date of 01.01.2015. However, that old Voter ID Card (Annexure-A) was discontinued by the election commission and in its place new Voter ID Card bearing number ARE 1157577 (Annexure-B) was issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The second Voter ID Card bearing number ARE 1157577 (Annexure-B) was used by the Appellant/Claimant for casting her vote continuously from 2012 to 2018 as reflected in the Voter List of the year 2012 (Annexure-U), Voter List of the year 2013 (Annexure-V), Voter List of the year 2014 (Annexure-W) Voter List of the year 2015 (Annexure-X) and Voter List of the year 2018 (Annexure-Y). and Voter List of the year 2020 (Annexure-Z). The new Voter ID Card bearing number ARE 2280618 (Annexure-C) of the Appellant/Claimant was issued on 25.07.2019 and it has been used by her to cast her vote in the year 2020 as reflected in the Voter List of the year 2020 (Annexure-Z) and accordingly, legal inference can be drawn that the Voter ID Card bearing number ARE 1157577 (Annexure-B) which was issued on 27.10.2008 had continued to be exist till the new Voter ID Card No. ARE 2280618 (Annexure-C) was issued on 25.07.2019. In all the voter lists (Annexure-U to Annexure-Z) the address is mentioned to be Jhuggi No. B-480 regarding which the Appellant/Claimant has been claiming allotment from DDA.

32. Thus we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card number ARE 1157577 (Annexure-B) on the cut off date of 01.01.2015 and this voter ID Card has been issued on the address of Jhuggi No. B-480 regarding which the present Appellant/ claimant has claimed allotment from DDA and further her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. This shows that the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and she accordingly fulfills the eligibility criteria as per the guidelines issued by DDA.

33. The Appellant/Claimant has tendered the Passbook of Union Bank of India (Annexure-J), Electricity Bill (Annexure–K), ID Card issued by New M/P Co-operative Housing Society (Annexure-L) as well as the Voter ID Card No. ARE 1157619 (Annexure-M), Aadhar Card (Annexure-N) & PAN Card (Annexure-O) of her daughter-in-law Supriya

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and the Voter ID Card No. CXY 1074277 (Annexure-P), Aadhar Card (Annexure-Q) & PAN Card (Annexure-R) of her son Sujan Biswas, Aadhar Card (Annexure-S) of her granddaughter Sweta & Aadhar Card (Annexure-T) of her grandson Biswanath.

34. It is pointed out that the Passbook of Union Bank of India (Annexure-J) shows that the account has been opened by the Appellant/Claimant on 07.05.2012, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-K) also shows that the connection was taken by her husband Promatha on 19.06.2008, much prior to the cut off date of 01.01.2015. The Identity Card (Annexure-L) of the Appellant/Claimant by New M/P Co-Op Housing Society has been issued on 01.11.2005, much prior to the cut off date of 01.01.2015. Further, the Voter ID Card No. ARE 1157619 (Annexure-M) and Voter ID Card No. CXY 1074277 (Annexure-P) have been issued on 17.10.2008 & 07.03.2002, much prior to the cut off date of 01.01.2015. Further, it is pointed out that the abovementioned documents have been issued on the address of Jhuggi No. B-480 regarding which the Appellant/Claimant has been claiming allotment from DDA thereby showing that the Appellant/Claimant & her family members have been living there since long and especially much prior to the cutoff date of 01.01.2015 in the Jhuggi No. B-480 regarding which the present Appellant/Claimant has claimed allotment from DDA. This further shows that the Appellant/Claimant is having requisite documents and accordingly she fulfills the eligibility criteria as per the guidelines issued by DDA.

35. Here it pertinent to mention that in Paras No. 1 of the proceedings conducted by EDC it is pointed out that in the survey records of DDA it is mentioned that the upper floor Jhuggi of the Appellant/Claimant was found to exist but the statement of the Appellant/Claimant as well as the video clips furnished by DDA shows that the Jhuggi of the Appellant/Claimant regarding which survey was conducted by DDA's Survey Team was found on the ground floor. But even if for the sake of arguments, it is taken to be gospel truth that the survey team had correctly found the Jhuggi of the Appellant/Claimant was found to be in existence on the upper floor at the time of survey then also it is of no consequence because the Appellant/Claimant fulfills the criteria for the upper floor also.

36. The bare perusal of the Policy enumerated in Para No. 21 above, shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card, on the cut off date of 01.01.2015 and further his/her name must appear in at

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least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

37. We have already pointed out that the material placed on file has proved that the Appellant/Claimant is having required document, Voter ID Card, and her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Now it has to be seen whether the Appellant/Claimant is also having a separate Ration Card.

38. The Appellant/Claimant has also tendered her three Ration Cards (Annexure-G to Annexure-I). The old Ration Card (Annexure-G) has been issued on 11.06.1999 in favour of her husband Promatha and the name of the Appellant/Claimant & her children has been mentioned. The BPL Card (Annexure-H) has been issued on 19.09.2008 in favour of her husband Promatha and the name of the family members including that of the Appellant/Claimant has been mentioned. The new Ration Card (Annexure-I) has been issued in favour of the Appellant/Claimant Kamla Biswas and the name of the family members has been mentioned but the date of issuance is not mentioned. The material placed on file shows that the old Ration Card (Annexure-G) was issued on 11.06.1999 and thereafter the BPL Ration Card (Annexure-H) was issued on 19.09.2008 and after that new Ration Card (Annexure-I) was issued and accordingly, a legal inference about its continuation can be presumed that it has been issued in continuation of the old Ration Card (Annexure-H), which was issued on 19.09.2008.

39. This accordingly shows that the Appellant/Claimant is having Ration Cards from the year 1999 up till this date on the address of Jhuggi No. B-480 and the same is duly corroborated by documents, Annexure-G to Annexure-I and in all the Ration Cards, the names of the family members have also been mentioned thereby corroborating the statement of the Appellant/Claimant that she along with her family has been continuously living in Jhuggi No. B-6480 since long and more specifically on the cut off date 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a separate ration card in her name on the cutoff date of 01.01.2015 on the address of Jhuggi No. B-480 regarding which the Appellant/Claimant has claimed allotment from DDA. This shows that the Appellant/Claimant along with her son Sujan Biswas & his wife Supriya Biswas has been living since very long, and specifically on the cut off date of 01.01.2015, in Jhuggi No. B-480. In the light of our detailed discussion above, we have no hesitation in

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holding that the Appellant/ Claimant was having all the requisite documents, including Voter ID card & a separate Ration Card, on the cutoff date of 01.01.2015 and further her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she fulfills the eligibility criteria as per the guidelines issued by DDA.

40. Hence, we have no hesitation in holding that the Appellant/Claimant & her family has been using the ground floor of the Jhuggi No. B-480 for residential purposes on the cutoff date of 01.01.2015 and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card & a separate Ration Card, on the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

41. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present Appeal No. 273 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/36/081.G/971 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/Claimant Kamla W/o Promatha D/o Abhilas Biswas, in respect of the Jhuggi No. B-480, Bhoomiheen Camp.

42. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 274 of 2023

Date of Institution: 25.11.2022

Date of Order: 18.07.2023

Present: Appellant/Claimant Sulekha Roy W/o Rattan Roy D/o Promatha Biswas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-480, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-480 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/81.1/972 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 274 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 20.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support

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of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-480 was found to exist on the upper floor but she had failed to submit required documents, i.e., a separate Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Sulekha Roy, has been recorded before us on 20.04.2023 wherein she has stated that her parents, Promatha Biswas & Kamla, are having two sons Kankan & Sujan and three daughters, Meera, Suro & Sulekha. Her husband Promatha Biswas had expired on 25.12.2020. All the children are married. Meera was married with Tapas and she was living in her matrimonial home situated in A-Block, Bhoomiheen Camp but she has expired. Suro is married with Ninanjan and she is living in her matrimonial home in Bihar. Sujan is married with Supriya and having two children, Subu & Sweta. Kankan is married with Kanan and having two children, Sidharth & Konika. Sulekha (Appellant/Claimant) is married with Ratan and having two children, Tapas & Jyoti.

8. The Appellant/Claimant has stated that her family is having a triple storey Jhuggi No. B-480 in Bhoomiheen Camp. The ground floor comprises of one room whereas the first and second floor comprises of two rooms each. Pucca staircase is constructed outside in gali for going to first floor and further an iron ladder is placed on first floor for going to the second floor.

9. The Appellant/Claimant has stated that her parents Promatha (up till his death on 25.12.2020) & Kamala, along with the family of their son Sujan are living on the ground floor of Jhuggi No. B-480 and her mother, Kamla, has sought allotment against the ground

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floor of Jhuggi No. B-480 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 273 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Kankan along with his wife Kanan & children is living on the second floor and regarding that Kanan has sought allotment but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 383 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Ratan is living on the first floor of Jhuggi No. B-480. The Appellant/Claimant has sought allotment against the first floor of Jhuggi No. B-480 but her claim has been rejected by Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 274 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour against the first floor of Jhuggi No. B-480.

12. It is pointed out that all the three the Appeals bearing Appeal No. 273 of 2023, Appeal No. 274 of 2023 & Appeal 383 of 2023 shall be decided separately on their respective merits.

13. DDA has furnished the survey record along with ten video clips pertaining to Jhuggi No. B-480. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 20.04.2023 wherein she has stated that three videos pertain to ground floor of the Jhuggi No. B-480 in which her mother Kamla and Supriya W/o Sujan, are seen and room & kitchen on the ground floor of the Jhuggi No. B-480 are also seen. In the next two videos, she (Sulekha (Appellant/Claimant of Appeal No. 274) is seen and her room & kitchen are also seen on the first floor and an iron ladder placed in the room on the first floor for going to the second floor is also seen. In the next five videos, Kankan, who is husband of Kanan (Appellant/Claimant of Appeal No. 383) is seen standing in the room on the second floor of the Jhuggi No. B-480 and the room & kitchen are also seen and further Kankan is heard stating that he along with his wife and two children is living on the second floor and the second floor is used for living purposes and also for cooking food. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the triple storey pucca Jhuggi No. B-480 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purpose.

14. Accordingly, we have no hesitation in holding that the triple storey pucca Jhuggi No. B-480 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is using the first floor of the said Jhuggi for residential purpose.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID

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Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in his favour.

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/81.1/972 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any

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of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

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20. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

24. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-M, in support of her claim and prayed that DDA be directed to make allotment in her favour.

25. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1157593 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

26. It is pointed out that the Voter ID Card No. ARE 1157593 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the

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Appellant/Claimant appears at Sl. No. 617 in the Voter List of the year 2014 (Annexure-L) and at Sl. No. 678 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut-off date of 01.01.2015 and her name also appears in the Voter Lists of the year's 2014 & also in the year of survey.

27. The Appellant/Claimant has tendered her two Ration Cards (Annexure-D & Annexure-G). The old Ration Card (Annexure-G) has been issued on 01.03.2005 in favour of her husband Ratan Roy in which the name of the Appellant/Claimant is mentioned. The Appellant/Claimant has also tendered the new Ration Card No. 077002164835 (Annexure-D), which has been issued in her favour on 17.02.2015, much after the cutoff date of 01.01.0215. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-480 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1157585 (Annexure-E) & Aadhar Card (Annexure-F) of her husband Ratan Roy as well as Passbook of UBI (Annexure-H), Electricity Bill (Annexure-I), Aadhar Cards of her children Akash Roy & Jyoti Roy (Annexure-J & Annexure-K respectively).

29. It is pointed out that the Voter ID Card No. ARE 1157585 (Annexure-E) has been issued on 27.10.2008. The Passbook of UBI (Annexure-H) shows that the account was opened by the Appellant/Claimant on 06.05.2013. The Electricity Bill (Annexure-I) shows that the electricity connection had been taken by her husband Ratan Roy on 19.12.2012. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that she is claiming allotment against the upper floor.

31. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor

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of the Jhuggi No.B-480 regarding which she is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

32. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/81.1/972 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 263 of 2023

Date of Institution: 24.11.2022

Date of Order: 19.07.2023

Present: Appellant/Claimant Manoj Biswas S/o Mangal Biswas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-450, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-450 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/94.1/1575 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 263 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-450 was found to exist on the upper floor but he had failed to submit required documents, as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Manoj Biswas, has been recorded before us on 03.07.2023 wherein he has stated that his parents, Mangal & Sandhya, are having two sons, Mantosh and Manoj. Mantosh is unmarried. Manoj is married with Subhadra and having one son, Manit.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-450 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Mangal & Sandhya, are living on the ground floor of the Jhuggi No. C-450 and regarding that DDA has made allotment in favour of his mother Sandhya. These facts are not disputed by DDA.

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10. The Appellant/Claimant has stated that he along with his wife Subhadra and son Manit is living on the first floor of the Jhuggi No. C-450. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-450 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 263 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-450. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.07.2023 wherein he has stated that two video clips pertain to the ground floor of Jhuggi No. C-450 in which his mother Sandhya is seen and further, her room & kitchen on the ground floor are seen. The next two video clips pertain to the first floor of the Jhuggi No. C-450 in which a pucca staircase going from the ground floor to the first floor is seen and further, the Appellant/Claimant, Manoj, is seen on the first floor and his room & kitchen are seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. C-450 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purpose.

12. Accordingly, we have no hesitation in holding that the triple storey pucca Jhuggi No. C-450 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purpose.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration

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Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration card. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/94.1/1575 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**

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- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against

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upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1174671 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2015 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

23. It is pointed out that Voter ID Card No. ARE 1174671 (Annexure-A) has been issued on 06.09.2012, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 75 in the Voter List of the year 2015 (Annexure-J) and at Sl. No. 86 in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2015 and also in the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of upper floor of the Jhuggi No. C-450 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his old Ration Card (Annexure-H), which has been issued in favour of his father Mangal on

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03.07.1997 and the name of the Appellant/Claimant is also mentioned. The new Ration Card (Annexure-I) has been issued on 26.04.2014 in favour of his mother Sandhya and the name of the Appellant/Claimant is also mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-450 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Driving License (Annexure-D), Voter ID Card No. ARE 2080786 (Annexure-E) of his wife Subhadra, the Electricity Bill (Annexure-F) and the Passbook of Bank of Baroda (Annexure-G).

26. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 14.01.20103. The Voter ID Card No. ARE 2080786 (Annexure-E) of his wife Subhadra has been issued on 21.11.2015. The Electricity Bill (Annexure-F) shows that the connection has been taken by his father Mangal on 28.04.2008 on the ground floor of jhuggi No. C-450, thereby, showing that the Appellant/Claimant was not having connection on the first floor of the Jhuggi No. C-450 regarding which he is claiming allotment from DDA. The Passbook of Bank of Baroda (Annexure-G) shows that the Appellant/Claimant has opened the account on 25.03.2013. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2015 and also in the year of survey.

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28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/94.1/1575 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 379 of 2023

Date of Institution: 29.11.2022

Date of Order: 19.07.2023

Present: Appellant/ Claimant Rajender kumar S/o Bhola Ram

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-98, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-98 was found to exist on the first floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/29.1/943 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 379 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

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4. The statement of the Appellant/Claimant has been recorded before us on 04.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No.C-98 was found to exist on the first floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Rajinder Kumar, has been recorded before us on 04.07.2023, wherein he has stated that his parents, Bhola Ram & Sita, are having three sons, Sushil, Ashok & Rajinder. Sushil is unmarried. Ashok is married with Sonu and having three children, Deepika, Komal & Akshay. Sonu has since expired. Rajinder (Appellant/Claimant) is married with Jyoti and having four children, Devki, Dolly, Dwitesh & Nandini.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-98 and it comprises of two rooms on the ground floor and one room on the first floor and an iron ladder is placed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Bhola Ram & Sita, along with their unmarried son Sushil are living in the first room on the ground floor of Jhuggi No. C-98 and regarding that DDA has made allotment in favour of his father Bhola Ram. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Ashok along with his family is living in the second room on the ground floor of the Jhuggi No. C-98 and regarding that DDA has made allotment in favour of his brother Ashok. These facts are not disputed by DDA.

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11. The Appellant/Claimant has stated that he along with his wife Jyoti and all the four children, Devki, Dolly, Dwitesh & Nandini, is living on the first floor of the Jhuggi No. C-98. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-98 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 379 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-98.The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.07.2023 wherein he has stated that the first video clip pertains to the first room on the ground floor of C-98 in which his parents, Bhola Ram & Sita, are seen and further, their room & kitchen on the ground floor are also seen. The second video clip pertains to the second room on the ground floor of Jhuggi No. C-98 in which his brother Ashok is seen and further, his room & kitchen are also seen. The third video clip pertains to the first floor of Jhuggi No. C-98 in which the Appellant/Claimant, Rajinder, is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. C-98 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purpose.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. C-98 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant has been using the first floor of the said Jhuggi No. C-98 for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the said Jhuggi as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure- M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same

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will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/29.1/943 dated 07.11.2022.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**
>
> - Passport.

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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."

18. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

19. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said Jhuggi as per the policy guidelines issued by DDA.

20. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1169531 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

21. It is pointed out that the Voter ID Card No. ARE 1169531 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 516 in the Voter List of the Year 2014 (Annexure-L) and at Sl. No. 563 in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off

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date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

22. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of upper floor of the Jhuggi No. C-98 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-J), which has been issued in favour of his father Bhola Ram on 15.06.2002 in which the name of the Appellant/Claimant has also been mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-98 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

23. The Appellant/Claimant has tendered his Passport (Annexure-D), the Passbook of SBI (Annexure-E), Electricity Bill (Annexure-F) as well as Voter ID Card No. ARE 2609618 (Annexure-G), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of his wife Jyoti and LIC policy (Annexure-K).

24. It is pointed out that the Passport (Annexure-D) of the Appellant/Claimant has been issued on 24.12.1997. The Passbook of SBI (Annexure-E) shows that the Appellant/Claimant had opened the account on 08.07.2012. The Electricity Bill (Annexure-F) shows that the connection has been taken by his father Bhola Ram on 12.06.2008 on the ground floor of the Jhuggi No. C-98 thereby, showing that the Appellant/Claimant was not having connection on the first floor of the Jhuggi No. C-98 regarding which he is claiming allotment from DDA. The Voter ID Card No. ARE 2609618 (Annexure-G) of Jyoti has been issued on 27.11.2022 much after the cutoff date 01.01.2015. The LIC policy (Annexure-K) of the Appellant/Claimant has been issued on 20.06.2005. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

25. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor of Jhuggi No. C-98. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

26. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-98 regarding which he has

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claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/29.1/943 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 380 of 2023

Date of Institution: 29.11.2022

Date of Order: 19.07.2023

Present: Appellant/ Claimant Sanjay Das S/o Ramesh Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No.C-143, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-143 was found to exist on the first floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/46.1/953 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 380 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 04.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K support of his

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claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No.C-143was found to exist on the first floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA

7. The statement of the Appellant/Claimant, Sanjay Das, has been recorded before us on 04.07.2023 wherein he has stated that his parents, Ramesh & Shivani, are having two sons, Deepak and Sanjay. Ramesh had expired in the year 2010. Shivani had expired in the year 2018 and her Death Certificate is Annexure-G thereby showing that she had expired on 02.05.2018. Deepak is married with Gayatri and having one son, Jishant. Whereas Sanjay (Appellant/Claimant) is unmarried.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. C-143 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his brother Deepak along with his wife Gayatri & son Jishant is living on the ground floor whereas he (Appellant/Claimant) is living on the first floor of Jhuggi No. C-143. The Appellant/Claimant is having a joint kitchen with Deepak and stated that they are living jointly for all the purposes. The Appellant/Claimant has stated that Deepak has sought allotment from DDA against the ground floor of the Jhuggi No. C-143 and DDA has made allotment in favour of Deepak. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he is living on the first floor of the Jhuggi No. C-143 but for all the purposes he is living jointly with the family of his brother Deepak and he has

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also categorically stated that he is having a joint kitchen with his brother Deepak and it is situated on the ground floor of the Jhuggi No. C-143. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-143 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, the Appellant/Claimant has filed the present Appeal No. 280 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with three video clips of Jhuggi No. C-143. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 04.07.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor in which his sister-in-law, Gayatri, is seen and further, her room & kitchen are also seen on the ground floor. The third video clip pertains to the first floor in which Gayatri is seen getting the survey conducted on behalf of the Appellant/Claimant. Further, his room on the first floor is seen but no kitchen is seen.

12. The admission of the Appellant/Claimant is a clincher piece of evidence as he has specifically admitted that he is unmarried and he is living jointly with the family of his brother Deepak for all the purposes and further, he has also specifically admitted that he is having a joint kitchen with the family of Deepak and it is situated on the ground floor of the Jhuggi No. C-143. Furthermore, the survey is not got conducted by the Appellant/Claimant but it was got conducted by her sister-in-law Gayatri W/o Deepak and further in the video clips no kitchen was found on the first floor. This shows that the Appellant/Claimant is not living separately and independently on the first floor of Jhuggi No. C-143 but he has been living jointly with the family of Deepak and sharing joint kitchen with him, which is situated on the ground floor of Jhuggi No. C-143.

13. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. C-143 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant, who is unmarried, was not living separately & independently on the first floor of the Jhuggi No. C-143 but he was living jointly with the family of his brother Deepak and sharing joint kitchen with him.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. C-98 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 but the Appellant/Claimant, who is unmarried, is not living separately & independently on the first floor of the Jhuggi No. C-143 but he is living jointly with the family of his brother Deepak and sharing joint kitchen with him. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

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15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the said Jhuggi as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure- K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/46.1/953 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.

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7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents.

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Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

24. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2612471 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K)

25. It is pointed out that the Voter ID Card No. ARE 2612471 (Annexure-A) has been issued on 13.12.2022, much after the cut off date of 01.01.2015. Further, it is pointed out that the

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name of the Appellant/Claimant appears at Sl. No. 702 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 756 in the Voter List of the year 2019 (Annexure-K). The number of the Voter ID Card of the Appellant/Claimant has been mentioned to be ARE 1170968 in the Voter Lists of the year 2014 (Annexure-J) and of the year 2019 (Annexure-K). This shows that the Appellant/Claimant was having Voter ID Card No. ARE 1170968 before the issuance of the Voter ID Card No. ARE 2612471 (Annexure-A) on 13.12.2022. However, this Voter ID Card No. ARE 11709687 has not been placed on file by the Appellant/Claimant and accordingly the date of issuance cannot be ascertained but it having reflected in the Voter List of 2014 shows that it was in existence on the cutoff date of 01.01.2015. But no satisfactory explanation has been given by the Appellant/Claimant for withholding of the material document. Furthermore, the reasons for getting the second Voter ID Card issued when the Appellant/Claimant was already having the Voter ID Card No. ARE 1170968 creates doubt and suspicion. Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and his name also appears in the voter list of the year's 2014 & also in the year of survey.

26. The Appellant/ Claimant has admitted that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. C-143 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the old Ration Card (Annexure-H), which has been issued in favour of his mother Shivani on 30.03.2010 and the name of the Appellant/Claimant is mentioned. The new Ration Card (Annexure-I) has been issued on 07.12.2012 and the name of the Appellant/Claimant has also been mentioned therein. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-143 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered his Driving License (Annexure-D), Passbook of SBI (Annexure-E) and Electricity Bill (Annexure-F).

28. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 07.07.2009. The Passbook of SBI shows that the Appellant/Claimant had opened the account on 08.08.2022, much after the cut off date 01.01.2015. The Electricity Bill (Annexure-F) shows that the connection had been taken by his mother Shivani on 10.06.2008 on the address of ground floor of Jhuggi No. C-143 thereby showing that the Appellant/Claimant was not having a connection on the first floor of Jhuggi No. C-143, regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as

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per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor of Jhuggi No. C-143. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-143 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

31. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/46.1/953 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 398 of 2023

Date of Institution: 29.11.2022

Date of Order: 20.07.2023

Present: Appellant/Claimant Purnima Das W/o Akash Das D/o Adhir Pahad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-228, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-228 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No.

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385/59/66.G/1192 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 398 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-228 was found to exist on the upper floor but she had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Purnima Das, has been recorded before us on 03.05.2023 wherein she has stated that her in-laws, Haran Das & Shanti are having

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four sons; Akash, Khokan, Raj Kumar & Suraj. Haran Das had expired on 17.01.2023. All the children are married. Suraj is married with Priyanka. Raj Kumar is married with Pinki and having two children; Ayush & Arohi. Khokan is married with Sushmita and having two children Kush & Ankush. Akash is married with Purnima (Appellant/Claimant) and having two children, Sanju & Sangita.

8. The Appellant/Claimant has stated that her family is having a four storey Jhuggi No. A-228 and it comprises of one room on each floor and a pucca staircase has been constructed in the gali for going to the first floor and thereafter, an iron ladder is placed on the first floor for going to the second and third floors.

9. The Appellant/Claimant has stated that her in-laws, Haran Das (up till his death on 17.01.2023) and Shanti, are living on the ground floor of the Jhuggi No. A-228 and regarding that, DDA has made allotment in favour of her mother-in-law Shanti. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Raj Kumar along with his wife Pinki and both the children is living on the first floor of the Jhuggi No. A-228 and regarding that Raj Kumar has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 466 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that Khokhan along with his wife Sushmita and both the children is living on the third floor of the Jhuggi No. A-228 and regarding that Khokhan has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 399 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that she along with her husband Akash and both the children, Sanju & Sangita is living on the second floor of the Jhuggi No. A-228. The Appellant/Claimant has sought allotment from DDA against the second floor of the Jhuggi No. A-228 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 398 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has

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tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

13. It is pertinent to point out that all the three appeals bearing Appeal No. 398 of 2023, Appeal No. 399 of 2023 and Appeal No. 466 of 2023 shall be decided separately on their individual merit.

14. DDA has furnished the survey records along with six video clip of Jhuggi No. A-228. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 03.05.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor in which her mother-in-law Shanti is seen and further, her room & kitchen are also seen and furthermore, a pucca staircase constructed in the gali and going to the upper floor is also seen. In the next two video clips, Raj Kumar is seen on the first floor of the Jhuggi No. A-228 and further, his room & kitchen are also seen and further, an iron ladder placed outside on the first floor and going to the second floor is also seen. In the next two video clips, the Appellant/Claimant Purnima W/o Akash is seen on the first floor and further, her room & kitchen are also seen. The sixth video clip pertains to the third floor in which Khokan is seen on the third floor of the Jhuggi No. A-228 and his room & Kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a four storey Jhuggi No A-228 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by Shanti whereas the first floor is used for residential purposes by Raj Kumar (Appellant/ Claimant of Appeal No. 466 of 2023) and the second floor is used for residential purposes by Purnima (Appellant/ Claimant of Appeal No. 398 of 2023) and the third floor is used for residential purposes by Khokhan (Appellant/ Claimant of Appeal No. 399 of 2023).

15. Accordingly, we have no hesitation in holding that the four storey Jhuggi No A-228, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

16. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to

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01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the third floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further she was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/66.G/1192 dated 07.11.2022.

19. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

20. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

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22. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

23. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

> *"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-*
>
> *(1) words importing the masculine gender shall also be taken to include females; and*
>
> *(2) words in the singular shall include the plural, and vice versa.*

24. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers

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living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

25. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

26. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

27. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily

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required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

29. It is pointed out that as per our discussion in detail above, we have held that the third floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

30. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the third floor as per the policy guidelines issued by DDA.

31. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

32. The Appellant/Claimant has neither tendered her Voter ID Card nor any of the Voter Lists to show that she was having a Voter ID Card on the cut off date of 01.01.2015 and also that she has used the Voter ID Card to cast her vote in any of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and her name also does not appear in the Voter List of

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the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

33. 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 third floor of the Jhuggi No. A-228 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-F), which has been issued in the name of her mother-in-law Shanti Devi and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-228 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

34. The Appellant/Claimant has tendered Voter ID Card No. ARE 1129782 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) of her husband Akash and her Aadhar Card (Annexure-D) and Electricity Bill (Annexure-E) as well as Voter List of the year 2015 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

35. It is pointed out that the Voter ID Card No. ARE 1129782 (Annexure-A) of her husband Akash has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. Further, the name of the husband of the Appellant/Claimant, Akash, appears at Sl. No. 82 in the Voter List of the year 2015 (Annexure-G) & at Sl. No. 110 in the Voter List of the year 2019 (Annexure-H). The Electricity Bill (Annexure-E) shows that the due date of bill is 13.11.2009 on the address of ground floor of the Jhuggi No. A-228 thereby showing that the Appellant/Claimant was not having an electricity connection on the second floor of the Jhuggi No. A-228 regarding which she is claiming allotment from DDA. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and

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2015 (prior to 01-01-2015) & of the year of survey and further she was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and further she was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor and further she has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

37. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-228 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further she was not having a Voter ID Card on the cut-off date of 01.01.2015 and her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and she was also not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-228 regarding which she is claiming allotment from DDA. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/66.G/1192 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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39. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranbir Singh) 24/7/2023	**(Satish Ahlawat)** 20/7/2023	**(Rachna Tiwary)** 24/7/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 399 of 2023

Date of Institution: 29.11.2022

Date of Order: 20.07.2023

Present: Appellant/Claimant Khokhan Das S/o Haran Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-228, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-228 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/66.2/1194 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 399 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-228 was found to exist but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / / No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the third floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Khokhan Das, has been recorded before us on 03.05.2023 wherein he has stated that his parents, Haran Das & Shanti are having four sons; Akash, Khokan, Raj Kumar & Suraj. Haran Das had expired on 17.01.2023.

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All the children are married. Suraj is married with Priyanka. Akash is married with Purnima and having two children, Sanju & Sangita. Raj Kumar is married with Pinki and having two children; Ayush & Arohi. Khokan (Appellant/Claimant) is married with Sushmita and having two children Kush & Ankush.

8. The Appellant/Claimant has stated that his family is having a four storey Jhuggi No. A-228 and it comprises of one room on each floor and a pucca staircase has been constructed in the gali for going to the first floor and thereafter, an iron ladder is placed on the first floor for going to the second and third floors.

9. The Appellant/Claimant has stated that his parents, Haran Das (up till his death on 17.01.2023) and Shanti, are living on the ground floor of the Jhuggi No. A-228 and regarding that, DDA has made allotment in favour of his mother Shanti. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Raj Kumar along with his wife Pinki and both the children is living on the first floor of the Jhuggi No. A-228 and regarding that Raj Kumar has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 466 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Akash along with his wife Purnima and both the children is living on the second floor of the Jhuggi No. A-228 and regarding that Purnima has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 398 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Sushmita and both the children Kush & Ankush is living on the third floor of the Jhuggi No. A-228. The Appellant/Claimant has sought allotment from DDA against the third floor of the Jhuggi No. A-228 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 399 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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13. It is pertinent to point out that all the three appeals bearing Appeal No. 398 of 2023, Appeal No. 399 of 2023 and Appeal No. 466 of 2023 shall be decided separately on their individual merit.

14. DDA has furnished the survey records along with six video clip of Jhuggi No. A-228. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.05.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor in which his mother Shanti is seen and further, her room & kitchen are also seen and furthermore, a pucca staircase constructed in the gali and going to the upper floor is also seen. In the next two video clips, his brother Raj Kumar is seen on the first floor of the Jhuggi No. A-228 and further, his room & kitchen are also seen and further, an iron ladder placed outside on the first floor and going to the second floor is also seen. In the next two video clips, Purnima W/o Akash is seen on the first floor and further, her room & kitchen are also seen. The sixth video clip pertains to the third floor in which the Appellant/Claimant Khokan is seen on the third floor of the Jhuggi No. A-228 and his room & Kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a four storey Jhuggi No A-228 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by Shanti whereas the first floor is used for residential purposes by Raj Kumar (Appellant/ Claimant of Appeal No. 466 of 2023) and the second floor is used for residential purposes by Purnima (Appellant/ Claimant of Appeal No. 398 of 2023) and the third floor is used for residential purposes by Khokhan (Appellant/ Claimant of Appeal No. 399 of 2023).

15. Accordingly, we have no hesitation in holding that the four storey Jhuggi No A-228, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the third floor of the said Jhuggi for residential purposes.

16. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the third floor as per the policy guidelines issued by DDA.

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17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the third floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the third floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/66.2/1194 dated 07.11.2022.

19. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B
<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under:-</u>

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.

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3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.

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- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

20. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

22. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi

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without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

23. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

> *"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-*
>
> *(1) words importing the masculine gender shall also be taken to include females; and*
>
> *(2) words in the singular shall include the plural, and vice versa.*

24. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

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25. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

26. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

27. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her

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name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

28. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the third floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

29. It is pointed out that as per our discussion in detail above, we have held that the third floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the third floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

30. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the third floor as per the policy guidelines issued by DDA.

31. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

32. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2592772 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

33. It is pointed out that the Voter ID Card No. ARE 2592772 (Annexure-A) has been issued on 18.01.2022, much after the cut off date of 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore,

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we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

34. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of third floor of the Jhuggi No. A-228 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-E), which has been issued in the name of her mother Shanti Devi and the name of the family members including that of the present Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of third floor of the Jhuggi No. A-228 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

35. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), which shows that the connection has been taken by his father Haran Das on 22.06.2008 on the address of ground floor of the Jhuggi No. A-228 thereby showing that the Appellant/Claimant was not having an electricity connection on the third floor of the Jhuggi No. A-228 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The material placed on file shows that the Appellant/ Claimant was not having a Voter ID Card on the cut-off date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and further he was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor and further he has claimed allotment against the third floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents,

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Annexure-A to Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

37. Accordingly, we have no hesitation in holding that the Jhuggi on the third floor bearing No. A-228 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having a Voter ID Card on the cut-off date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and further he was also not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of third floor of the Jhuggi No. A-228 regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/66.2/1194 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

39. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

20/7/2023

(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

20/7/2023

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

20/7/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 466 of 2023

Date of Institution: 30.11.2022

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Present: Appellant/Claimant Raj Kumar Das Das S/o Haran Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-228, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-228 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/66.G/1193 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 466 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-228 was found to exist but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Raj Kumar Das, has been recorded before us on 03.05.2023 wherein he has stated that his parents, Haran Das & Shanti are having

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four sons; Akash, Khokan, Raj Kumar & Suraj. Haran Das had expired on 17.01.2023. All the children are married. Suraj is married with Priyanka. Akash is married with Purnima and having two children, Sanju & Sangita. Khokan is married with Sushmita and having two children Kush & Ankush. Raj Kumar (Appellant/Claimant) is married with Pinki and having two children; Ayush & Arohi.

8. The Appellant/Claimant has stated that his family is having a four storey Jhuggi No. A-228 and it comprises of one room on each floor and a pucca staircase has been constructed in the gali for going to the first floor and thereafter, an iron ladder is placed on the first floor for going to the second and third floors.

9. The Appellant/Claimant has stated that his parents, Haran Das (up till his death on 17.01.2023) and Shanti, are living on the ground floor of the Jhuggi No. A-228 and regarding that, DDA has made allotment in favour of his mother Shanti. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Akash along with his wife Purnima and both the children is living on the second floor of the Jhuggi No. A-228 and regarding that Purnima has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the Appeal No. 398 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his brother Khokhan along with his wife Sushmita and both the children is living on the third floor of the Jhuggi No. A-228. Khokhan has sought allotment from DDA against the third floor of the Jhuggi No. A-228 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 399 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that he along with his wife Pinki and both the children Ayush & Arohi, is living on the first floor of the Jhuggi No. A-228. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-228 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 466 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered

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documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. It is pertinent to point out that all the three appeals bearing Appeal No. 398 of 2023, Appeal No. 399 of 2023 and Appeal No. 466 of 2023 shall be decided separately on their individual merit.

14. DDA has furnished the survey records along with six video clip of Jhuggi No. A-228. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 03.05.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor in which his mother Shanti is seen and further, her room & kitchen are also seen and furthermore, a pucca staircase constructed in the gali and going to the upper floor is also seen. In the next two video clips, the Appellant/Claimant Raj Kumar is seen on the first floor of the Jhuggi No. A-228 and further, his room & kitchen are also seen and further, an iron ladder placed outside on the first floor and going to the second floor is also seen. In the next two video clips, Purnima W/o Akash is seen on the first floor and further, her room & kitchen are also seen. The sixth video clip pertains to the third floor in which Khokan is seen on the third floor of the Jhuggi No. A-228 and his room & Kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a four storey Jhuggi No A-228 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by Shanti whereas the first floor is used for residential purposes by Raj Kumar (Appellant/ Claimant of Appeal No. 466 of 2023) and the second floor is used for residential purposes by Purnima (Appellant/ Claimant of Appeal No. 398 of 2023) and the third floor is used for residential purposes by Khokhan (Appellant/ Claimant of Appeal No. 399 of 2023).

15. Accordingly, we have no hesitation in holding that the four storey Jhuggi No A-228, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

16. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to

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01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/66.G/1193 dated 07.11.2022.

19. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.

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6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

20. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

21. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

22. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

23. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the

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purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

24. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

25. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

26. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2592772 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C).

27. It is pointed out that the Voter ID Card No. ARE 2592772 (Annexure-A) has been issued on 18.01.2022, much after the cut off date of 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

28. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of third floor of the Jhuggi No. A-228 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered joint Ration Card (Annexure-E), which has been issued in the name of her mother Shanti Devi and the name of the family members including that of the present Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact

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remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-228 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

29. The Appellant/Claimant has tendered the Registration Certificate (Annexure-D) and Electricity Bill (Annexure-E).

30. It is pointed out that the Registration Certificate of motorcycle (Annexure-D) has been issued on 06.01.2017. The Electricity Bill (Annexure-E) shows that the connection has been taken in the name of his father Haran Das on 22.06.2008 on the address of ground floor of the Jhuggi No. A-228 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. A-228 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

31. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

32. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-186 regarding which he is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the

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guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/66.G/1193 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

34. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 658 of 2023

Date of Institution: 12.01.2023

Date of Order: 20.07.2023

Present: Appellant/ Claimant Dhananjay S/o Parsu Ram

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-186, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-186 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/025.1-A/838 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 658 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 19.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-186 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Dhananjay, has been recorded before us on 19.07.2023 wherein he has stated that his parents, Parsu Ram & Bimla, are having one son, Dhanjay and six daughters, Kiran, Soni, Rekha, Radha, Mamta & Puja. Parsu Ram had since

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expired in 2015. All the children are married. All the daughters, Kiran, Soni, Rekha, Radha, Mamta & Puja are living in their respective matrimonial homes in Uttar Pradesh. But Manohar, who was the husband of Mamta has since expired and after his death Mamta is living with her parents in Bhoomiheen Camp. Dhananjay (Appellant/Claimant) is married with Neha and having one son Shaurya.

8. The appellant/Claimant has stated that his family is having double storey Jhuggi No. C-186 and a pucca staircase has been constructed outside in the gali for going to the upper floor. The ground floor consists of two rooms on each floor.

9. The Appellant/Claimant has stated that his uncle Sri Ram along with his wife Manju is living in the first room on the ground floor of Jhuggi No. C-186 and regarding that DDA has made allotment in favour of his wife Manju. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his maternal uncle Sanjay along with his wife Rani is living in the second room on the ground floor of Jhuggi No. C-186 and regarding that Sanjay has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee but aggrieved by the same he has not filed an Appeal with the Appellate Authority. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his uncle Prabhu Nathu along with his wife Faguni is living in one of the rooms on the first floor of Jhuggi No. C-186 and regarding that Prabhu Nathu has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed an Appeal No. 633 of 2023 but his appeal has been rejected by Appellate Authority on 12.06.2023.

12. The Appellant/Claimant has stated that he along with his wife Neha and & son Shaurya has been living in the second room on the first floor of the said Jhuggi No. C-186. The Appellant/Claimant has sought allotment from DDA against the second room on the first floor of the Jhuggi No. C-186 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 658 of 2023. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey record along with four video clips pertaining to Jhuggi No. C-186. The video clips were played before the Appellant/Claimant when his statement was

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recorded before us on 19.07.2023 wherein he has stated that two video clips pertains to ground floor in which Manju W/o Sri Ram is seen and further her room and kitchen are also seen. The other two video clips pertain to the first floor of Jhuggi No. C-186 in which the Appellant/Claimant is seen and his room and kitchen are also seen. But the video of the second room on the first floor of the Appellant/Claimant is not available but the photographs taken by the survey team are placed on file and shows that he was living on the first floor of Jhuggi No. C-186. However, there is nothing to disbelieve the statement of the Appellant/Claimant that Jhuggi No. C-186 is a double storey Jhuggi and the Appellant/Claimant was living on the first floor of the same. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. C-186 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-186 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant along with his family is using the first floor of the said Jhuggi for residential purposes.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, in support of his claim and prayed that DDA be directed to make allotment in her favour.

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration

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Card on the cut -off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut-off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA as he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/025.1-A/838 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

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10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

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DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014

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and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

24. The Appellant/Claimant has tendered Voter ID Card No. ARE 1172121 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-G) and Voter List of the Year 2019 (Annexure-H).

25. It is pointed out that Voter ID Card No. ARE 1172121 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at SL. No.857 in the Voter List of the year 2014 (Annexure-G) and at SL. No 919 in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter Lists of the year's 2014 & also in the year of survey.

26. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-186 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-186 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

27. The Appellant/Claimant has tendered his Driving License (Annexure-D), Electricity Bill (Annexure-E) and Passbook of HDFC (Annexure-F).

28. It is pointed out that Driving License (Annexure-D) has been issued on 20.12.2011. The Electricity Bill (Annexure-E) shows that connection has been taken by the Appellant/Claimant on 28.03.2014. The Passbook of HDFC (Annexure-F) shows that the Appellant/Claimant has opened the account on 27.02.2014. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding

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that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

29. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he is claiming allotment against the upper floor.

30. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-186 regarding which he is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

31. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/025.1-A/838 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No:340 of 2023

Date of Institution: 28.11.2022

Date of Order: 21.07.2023

Present: Appellant/ Claimant Javitri W/o Radhey Shyam D/o Payare Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-361, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-361 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the

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Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/96.1/1310 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 340 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 01.06.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-361 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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7. The statement of the Appellant/Claimant, Javitri, has been recorded before us on 01.05.2023 wherein she has stated that her in-laws, Sagar Singh & Shanti, are having three sons, Rakesh, Prakash & Radhey Shyam and three daughters, Oma, Somwati & Bimla. Sagar Singh had died about twenty years ago and Shanti had died about six years ago. All the children are married. Oma & Somwati are living in their respective matrimonial homes in Delhi whereas Bimla along with her family is living in Bhoomiheen Camp, Delhi. Rakesh is married with Radha and having six children. Prakash is married with Chunni and having four children and they are living in Ghaziabad. Radhey Shyam is married with Javitri and having four children, Bharat, Akash, Raju & Sonu. Radhey Shyam has died on 07.06.2010 and his Death Certificate is Annexure-E.

8. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. B-361 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that her brother-in-law Rakesh along with his wife Radha is living on the ground floor of the Jhuggi No. B-361 and regarding that DDA has made allotment in favour of Radha. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with her husband Radhey Shyam (until his death on 07.06.2010) and four children Bharat, Akash, Raju & Sonu is living on the first floor of the Jhuggi No. B-361. The Appellant/Claimant has sought allotment from DDA against the first floor of Jhuggi No. B-361 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 340 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey records along with five video clips of Jhuggi No. B-361. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 01.05.2023 wherein the Appellant/Claimant has stated that three video clips pertain to the ground floor of Jhuggi No. B-361 in which Radha W/o Rakesh is seen and further, her room & kitchen are also seen. In the next two video clips, the Appellant/Claimant Javitri is seen on the first floor of the Jhuggi No. B-361 and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the

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survey records/video clips has duly proved that a double storey Jhuggi No. B-361 was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the Jhuggi No. B-361 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further the Appellant/ Claimant has been using the first floor of the said Jhuggi No. B-361 for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/96.1/1310 dated 07.11.2022.

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16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>**
>
> - Passport.

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- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which

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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."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered her Voter ID Card No. CXY 1085786 (Annexure-A), Aadhar Card (Annexure-B), Voter List of the year 2012 (Annexure-G) and Voter List of the year 2019 (Annexure-H).

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23. It is pointed out that the Voter ID Card No. CXY 1085786 (Annexure-A) has been issued on 11.03.2002, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 217 in the Voter List of the year 2012 (Annexure-G) and at Sl. No. 366 in the Voter List of the year 2019 (Annexure-H). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in the voter list of the year's 2012 & also in the year of survey.

24. The Appellant/Claimant has tendered the Electricity Bill (Annexure-C), Passbook of PNB (Annexure-D), and the Voter ID Card No. CXY 1084599 (Annexure-F) of her husband Radhey Shyam.

25. It is pointed out that the Electricity Bill (Annexure-C) shows that the connection has been taken by the Appellant/Claimant on 22.04.2008. The Passbook of PNB (Annexure-D) shows that the Appellant/Claimant has opened the account on 16.02.2006. The Voter ID Card CXY 1084599 (Annexure-F) of her husband Radhey Shyam has been issued on 10.03.2002.

26. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2013 and also in the year of survey.

27. 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-361 regarding which she is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. B-361 regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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28. The Appellant/Claimant has tendered the Electricity Bill (Annexure-C), the Passbook of Union Bank of India (Annexure-D) and Voter ID Card No. CXY 1084599 (Annexure-F).

29. It is pointed out that the Electricity Bill (Annexure-C) shows that the electricity connection was taken by the Appellant/Claimant on 22.09.2008. The Passbook of PNB (Annexure-D) shows that the Appellant/Claimant had opened the account on 16.02.2006. The Voter ID Card No. CXY 1084599 (Annexure-F) of her husband Radhey Shyam (since deceased) has been issued on 10.03.2002. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that she is claiming allotment from DDA against the upper floor.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, she does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in the voter list of the year's 2012 and also in the year of survey.

31. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/96.1/1310 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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32. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

21.7.2023

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 397 of 2023

Date of Institution: 29.11.2022

Date of Order: 21.07.2023

Present: Appellant/Claimant Amir Haldar S/o Bon Kumar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-26/A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-26/A was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No.

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385/59/37.1/1177 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 397 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 05.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-26/A was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Amir Haldar, has been recorded before us on 05.07.2023 wherein he has stated that his parents, Bon Kumar Haldar & Bhagwati, are

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having two sons, Amir & Samir. Samir is married with Panita and having one daughter Saumya. Amir (Appellant/Claimant) is married with Bithika.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi which is bearing the No. C-26/A and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going from the ground floor to the first floor and another iron ladder is placed on the first floor for going to the second floor.

9. The Appellant/Claimant has stated that his parents, Bon Kumar Haldar & Bhagwati, are living on the ground floor of the said Jhuggi No. C-26/A and regarding that DDA has made allotment in favour of his father, Bon Kumar Haldar. These facts are not disputed by DDA.

10. The Appellant/Claimant his brother Samir along with his wife Panita & daughter Saumya is living on the second floor of the said Jhuggi No. C-26/A and he has sought allotment from DDA against the second floor of the said Jhuggi No. C-26/A but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 496 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Bithika is living on the first floor of Jhuggi No. C-26/A. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-26/A but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 397 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. It is pertinent to point out that both the two appeals bearing Appeal No. 397 of 2023 and Appeal No. 496 of 2023 shall be decided separately on their individual merit.

13. DDA has furnished the survey records along with five video clips of Jhuggi No. C-26/A. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 05.07.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor in which his father Bon Kumar is seen and further, his room & kitchen are also seen and further, an iron ladder placed on the ground floor outside in the gali for going to the first floor is also seen. The next two video clips pertain to the first floor, in which Amir (Appellant/Claimant) is seen and

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further, his room & kitchen are also seen and an iron ladder placed on the first floor for going to the second floor is also seen. The next video clip pertains to the second floor in which Samir, brother of the Appellant/Claimant, is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No.C-26/A was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Bon Kumar & Bhagwati, whereas the first floor is used for residential purposes by Amir (Appellant/ Claimant of Appeal No. 397 of 2023) and the second floor is used for residential purposes by Samir (Appellant/ Claimant of Appeal No. 496 of 2023)

14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No.C-26/A Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor 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-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines

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issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/37.1/1177 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

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11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 of DDA policy

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runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

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24. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

25. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1167220 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

26. It is pointed out that the Voter ID Card No. ARE 1167220 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 248 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 302 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & of the year of survey.

27. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-26/A regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-H), which has been issued in favour of his mother Bhagawati on 29.04.2015, much after the cut off date of 01.01.2015 and further the name of the Appellant/Claimant is mentioned therein. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-26/A regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2547750 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Bithika as well as the Electricity Bill (Annexure-G).

29. It is pointed out that the Voter ID Card No. ARE 2547750 (Annexure-D) has been issued on 22.10.2021, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-G) also shows that the connection has been taken by his father Bon Kumar

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Haldar on 07.09.2020, on the ground floor of Jhuggi No. C-26/A thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. C-26/A regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he is claiming allotment against the upper floor.

31. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-26/A regarding which he is claiming allotment from DDA. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

32. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/37.1/1177 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its

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website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 496 of 2023

Date of Institution: 01.12.2022

Date of Order: 21.07.2023

Present: Appellant/Claimant Samir Kumar Haldar S/o Bon Kumar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-26/A, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-26/A was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No.

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385/59/37.2/1176 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 496 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 05.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No.C-26/A was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Samir Haldar, has been recorded before us

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on 05.07.2023 wherein he has stated that his parents, Bon Kumar Haldar & Bhagwati, are having two sons, Amir & Samir. Amir is married with Bithika. Samir (Appellant/Claimant) is married with Panita and having one daughter Saumya.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi which is bearing the No. C-26/A and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going from the ground floor to the first floor and another iron ladder is placed on the first floor for going to the second floor.

9. The Appellant/Claimant has stated that his parents, Bon Kumar Haldar & Bhagwati, are living on the ground floor of the said Jhuggi No. C-26/A and regarding that DDA has made allotment in favour of his father Bon Kumar Haldar. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that his brother Aamir along with his wife Bithika is living on the first floor of the said Jhuggi No. C-26/A and Aamir has sought allotment from DDA against the first floor but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the Appeal No. 397 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Panita & daughter Saumya is living on the second floor of the said Jhuggi No. C-26/A. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. C-26/A but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 496 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. It is pertinent to point out that both the two appeals bearing Appeal No. 397 of 2023 and Appeal No. 496 of 2023 shall be decided separately on their individual merit.

13. DDA has furnished the survey records along with five video clips of Jhuggi No. C-26/A. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 05.07.2023 wherein the Appellant/Claimant has stated that two video clips pertain to the ground floor in which his father Bon Kumar is seen and

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further, his room & kitchen are also seen and further, an iron ladder placed on the ground floor outside in the gali for going to the first floor is also seen. The next two video clips pertain to the first floor, in which Amir is seen and further, his room & kitchen are also seen and an iron ladder placed on the first floor for going to the second floor is also seen. The next video clip pertains to the second floor in which the Appellant/Claimant Samir is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No.C-26/A was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Bon Kumar & Bhagwati, whereas the first floor is used for residential purposes by Amir (Appellant/ Claimant of Appeal No. 397 of 2023) and the second floor is used for residential purposes by Samir (Appellant/ Claimant of Appeal No. 496 of 2023)

14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No.C-26/A Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor 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-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in

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the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/37.2/1176 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
>
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

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8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey

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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. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

22. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been

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used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

> *"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-*
>
> *(1) words importing the masculine gender shall also be taken to include females; and*
>
> *(2) words in the singular shall include the plural, and vice versa.*

23. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

24. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative

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allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

25. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

26. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

28. It is pointed out that as per our discussion in detail above, we have held that the third floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

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because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

29. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the third floor as per the policy guidelines issued by DDA.

30. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

31. The Appellant/Claimant has tendered his Voter ID card bearing No. ARE 1167212 (Annexure-A), Aadhar Card, PAN Card, Voter List of the year 2014 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

32. It is pointed out that the Voter ID Card bearing No. ARE 1167212 has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 247 in the Voter List of the year 2014 (Annexure-H) and at Sl. No. 301 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in the Voter List of the year's 2014 & of the year of survey.

33. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-26/A regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-26/A regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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34. The Appellant/Claimant has tendered the Voter ID Card No. SJL 2842201 (Annexure-D), Aadhar Card (Annexure-E) of his wife Panita, Electricity Bill (Annexure-F) and the Passbook of SBI (Annexure-G).

35. It is pointed out that the Voter ID Card No. SJL 2842201 (Annexure-D) has been issued on 01.01.2019, much after the cut off date 01.01.2015. Further, it is pertinent to point out that in the Voter ID Card (Annexure-D) & Aadhar Card (Annexure-D) the address of of his wife Panita has been mentioned to be Mohalla Balmiki, Tughalakabad, Delhi and not on the address of Jhuggi No. C-26/A regarding which the Appellant/Claimant has been claiming allotment from DDA. Therefore, these documents are not relevant. The Electricity Bill (Annexure-F) shows that the connection has been taken by his father Bon Kumar on 07.09.2020 on the ground floor of Jhuggi No. C-26/A thereby showing that the Appellant/Claimant was not having an electricity connection on the second floor of the Jhuggi No. C-26/A regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of SBI (Annexure-G) shows that the account has been opened by the Appellant/Claimant on 24.01.2011. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

37. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. C-26/A against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration

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Card, on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-26/A regarding which he is claiming allotment from DDA. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

38. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/37.2/1176 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

39. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

24.7.2023

(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

21/7/2023

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

21/7/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 533 of 2023

Date of Institution: 05.12.2022

Date of Order: 20.07.2023

Present: Appellant/Claimant Kinger Patra S/o Ishwar Chand Patra

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-163, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-163 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/65.1/849 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 533 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant

his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-163 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Kingkar Patra, has been recorded before us on 07.07.2023 wherein he has stated that his parents, Ishar Chand Patra & Saiyaba, are having three sons, Shankar, Kingker & Biko and three daughters Gauri, Urmila & Biswapati. Ishar Chand Patra had expired in the year 1980. Biko and Gauri are unmarried. Biswapati is living in her matrimonial home in Kolkota, West Bengal. Urmila is living in her matrimonial home in Bhoomiheen Camp, Kaklkaji and she had got allotment from DDAfrom her matrimonial side. Shankar is married with Basanti and having two children, Ankush & Purnima. Kingker (Appellant/Claimant) is married with Faguni and having three children Payal, Kanak & Diksha.

8. The Appellant/Claimant has stated that his parents, Ishar Chand Patra & Saiyaba, are having triple storey Jhuggi No. C-163 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that his mother, Saiyba, along with her unmarried children, Biko & Gauri, is living on the ground floor and regarding that DDA has made allotment in favour of his mother Saiyaba. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Faguni and all the three children Payal, Kanak & Diksha, is living on the first floor of Jhuggi No. C-163. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-163 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 533 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-K, and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-163. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.07.2023 wherein he has stated that the first video clip pertains to the ground floor in which his mother, Saiyaba, is seen and further, her room & kitchen are also seen. The second video clip pertains to the first floor in which the Appellant/Claimant Kingker is seen and further his room & kitchen are also seen. The next two video clip pertain to the second floor in which Basanti is seen and further, her room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No. C-163 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

12. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. C-163 in Bhoomiheen Camp is a pucca structure and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming

guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/65.1/849 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.

- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ

and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1171495 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

23. It is pointed out that Voter ID |Card No ARE 1171495 (Annexure-A) has been issued on 03.03.2022, much after the cutoff date 01.01.2015. However, it is pointed out that the name of the Appellant/Claimant appears at Sl. No. 777 in the Vote List of the year 2014 (Annexure-J) and at Sl. No. 832 in the Vote List of the year 2019 (Annexure-K) and the number of his Voter ID Card has been mentioned to be bearing number ARE 1171495. It shows that the original Voter ID Card No. ARE 1171495 must have been issued much earlier to 03.03.2022 as it has been reflected in the Voter list of the year 2014 (Annexure-J) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 03.03.2022 but the original was in existence even in the year 2014 and that is why it has been reflected in the Voter List of the year 2014 (Annexure-J) and also in the Voter List of the year 2019 (Annexure-K). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

24. The Appellant/ Claimant has stated that he is not having a separate Ration card on the address of the first floor of the said Jhuggi No. C-163 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. C-163 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered Voter ID Card No. ARE 1171503 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Faguni as well as the Passbook of CBI

SBI (Annexure-H) shows that his wife Faguni had opened the account on 12.02.2018. The Electricity Bill (Annexure-I) shows that the connection has been taken by his mother Sohiba on 30.05.2008, on the ground floor of the Jhuggi No. C-163, thereby, showing that the Appellant/Claimant was not having connection on the first floor of Jhuggi No. C-163 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 inspite of the fact that he has claimed allotment against the first floor of Jhuggi No. C-163. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-163 regarding which he has claimed allotment from DDA. Therefore, Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card mandatory for the upper floor.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/65.1/849 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

21.7.2023

(Ranbir Singh)

21/7/2023

(Satish Ahlawat)

21/7/2023

(Rachna Tiwary)

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 566 of 2023

Date of Institution: 06.12.2022

Date of Order: 21.07.2023

Present: None for the Appellant/Claimant Ratan Kumar S/o Shanti Ranjan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-45, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-45 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/16.1/1202 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 566 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person in spite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-45 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before

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us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 06.02.2023 for 06.062023 to procure the appearance of the present Appellant/ Claimant. But the file was taken up on 08.05.2023 and fixed for 30.05.2023 to give priority and fresh notice was issued to procure his presence for 30.05.2023 but he had failed to appear in spite of due service. The Appellant/Claimant has failed to appear on 30.05.2023 and thereafter on 30.06.2023.

7. Accordingly, on 30.06.2023 fresh notice was issued for 19.07.2023 with the direction that in addition to serving of notice he may also be contacted on the mobile number mentioned in DDA records. But none appeared on 19.07.2023.

8. On 19.07.2023 fresh notice was issued for 20.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 20.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 21.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 21.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 566 of 2023 instituted on 06.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that

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the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/6/16.1/1202 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 566 of 2023 instituted on 30.0.2023 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Rambir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 567 of 2023

Date of Institution: 06.12.2022

Date of Order: 21.07.2023

Present: None for the Appellant/ Claimant Durga Sheel D/o Haripada Sheel

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-46/1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-46/1 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/18.1/1203 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 567 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-46/1 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/

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Claimant to procure her presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 06.02.2023 for 06.06.2023 to procure the appearance of the present Appellant/ Claimant. But the file was taken up on 08.05.2023 and fixed for 30.05.2023 to give priority and fresh notice was issued to procure her presence for 30.05.2023 but she had failed to appear in spite of due service. The Appellant/Claimant has failed to appear on 30.05.2023 and thereafter on 30.06.2023.

7. Accordingly, on 30.06.2023 fresh notice was issued for 19.07.2023 with the direction that in addition to serving of notice she may also be contacted on the mobile number mentioned in DDA records. But none appeared on 19.07.2023.

8. On 19.07.2023 fresh notice was issued for 20.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 20.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 21.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on her mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 21.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue her Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 567 of 2023 instituted on 06.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ

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dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/6/18.1/1203 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 567 of 2023 instituted on 06.12.2022 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 692 of 2023

Date of Institution: 30.01.2023

Date of Order: 21.07.2023

Present: None for the Appellant/ Claimant Ramsanbare S/o Chote Lal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-334, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-334 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/13.1/1551 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 692 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person in spite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-334 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before

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us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 17.02.2023 for 30.06.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear in spite of due service. The Appellant/Claimant has failed to appear on 30.06.2023.

7. Accordingly, on 30.06.2023 fresh notice was issued for 19.07.2023 with the direction that in addition to serving of notice he may also be contacted on the mobile number mentioned in DDA records. But none appeared on 19.07.2023.

8. On 19.07.2023 fresh notice was issued for 20.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 20.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 21.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 21.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 692 of 2023 instituted on 30.01.2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of

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rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/13.1/1551 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 692 of 2023 instituted on 30.0.2023 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 723 of 2023

Date of Institution: 23.02.2023

Date of Order: 21.07.2023

Present: None for the Appellant/ Claimant Deepak Das S/o SK Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-381, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-381 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/84.1/1571 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 723 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person in spite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-46/1 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/

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Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 23.02.2023 for 17.04.2023 to procure the appearance of the present Appellant/ Claimant. But the file was taken up on 17.04.2023 and fixed for 03.07.2023 to give priority and fresh notice was issued to procure his presence for 03.07.2023 but he had failed to appear in spite of due service. The Appellant/Claimant has failed to appear on 17.04.2023 and thereafter on 03.07.2023.

7. Accordingly, on 03.07.2023 fresh notice was issued for 20.07.2023 with the direction that in addition to serving of notice he may also be contacted on the mobile number mentioned in DDA records. But none appeared on 20.07.2023.

8. On 20.07.2023 fresh notice was issued for 21.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 21.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 21.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 21.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 723 of 2023 instituted on 23.02.2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that

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the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/84.1/1571 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 723 of 2023 instituted on 23.02.2023 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 59 of 2022

Date of Institution: 21.11.2022

Date of Order: 24.07.2023

Present: Appellant/Claimant Ganesh Das S/o Makhan Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-28, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-28 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/40.1/1180 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 59 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 27.04.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support

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of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-28 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Ganesh Das, has been recorded before us on 27.04.2023 wherein he has stated that his parents, Makhan Das & Sadhna, are having three sons; Ganesh, Narain & Shyamal and four daughters; Archna, Jyoti, Chandana & Purnima. Sadhna had died about thirty years ago and Makhan had expired in the year 2020. All the children are married. All the four daughters are living in their respective matrimonial homes. Shyamal is married with Laxmi and having three children, Shruti, Himanshi & Manvi. Narain is married with Ratna and having three children; Ranu, Neha & Khushi. Ganesh (Appellant/Claimant) is married with Ranjana and having two sons; Manish & Anish.

8. The Appellant/Claimant has stated that his family is having two Jhuggis, which are bearing Jhuggi No. B-687 and C-28. The Appellant/Claimant has stated that his brother Narain along with his family is living in the Jhuggi No. B-687 and regarding that DDA has made allotment in favour of Narain. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that his second Jhuggi bearing No. C-28 is a triple storey structure and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

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10. The Appellant/Claimant has stated that his brother Shyamal along with his wife Laxmi and the children is living on the ground floor of the Jhuggi No. C-28 and regarding that DDA has made allotment in favour of Shyamal. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that his parents (un till their death) were living on the second floor of the Jhuggi No. C-28 and after the death the second floor is used jointly by him and the family of Shyamal.

12. The Appellant/Claimant has stated that he along with his wife Ranjana and both the children Manish & Anish is living on the first floor of the Jhuggi No. C-28. The Appellant/Claimant has sought allotment from DDA against the first floor of the Jhuggi No. C-28 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 59 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

13. DDA has furnished the survey records along with five video clip of Jhuggi No. C-28. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 27.04.2023 wherein the Appellant/Claimant has stated that two video clips pertains to the ground floor in which his brother Shyamal is seen and further, his room & kitchen are also seen. In the next three video clips, the Appellant/Claimant Ganesh and his wife Ranjana are seen on the first floor of the Jhuggi No. C-28 and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that triple storey Jhuggi No C-28 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his brother Shayamal and first floor has been used for residential purposes by Ganesh Das (Appellant/ Claimant of Appeal No. 59 of 2023) and the second floor is being used jointly by the present Appellant/ Claimant and his brother Shayamal.

14. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No C-28, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes and the second floor jointly with Shayamal.

15. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

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16. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/59/40.1/1180 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

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10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against

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upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

24. The Appellant/ Claimant has 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.

25. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1167329 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-K) and Voter List of the year 2019 (Annexure-L).

26. It is pointed out that the Voter ID Card No. ARE 1167329 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 235 in the Voter List of the year 2012 (Annexure-K) and at Sl. No. 310 in the Voter List of the year 2019 (Annexure-L). Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 and his name appear in the Voter List of 2012 & of the year of survey.

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27. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. C-28 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-J), which has been issued in favour of his sister-in-law, Laxmi W/o Shyamal, and the name of the Appellant/Claimant has been mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-28 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

28. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), Voter ID Card No. CXY 1077486 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-H) of his wife Ranjana as well as Electricity Bill (Annexure-H) and Passbook of Indian Bank (Annexure-I).

29. It is pointed that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 25.01.2011. The Voter ID Card No. CXY 1077486 (Annexure-E) of his wife Ranjana has been issued on 08.03.2002. The Electricity Bill (Annexure-H) shows that the connection has been taken by his father Makhan on 03.06.2008 on address of ground floor of Jhuggi No. C-28 thereby showing that the Appellant/Claimant was not having an electricity connection on the first floor of the Jhuggi No. C-28 regarding which he is claiming allotment from DDA. The Passbook of Indian Bank (Annexure-I) shows that the account has been opened by the Appellant/Claimant on 21.07.2008. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

30. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper

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floor. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2012 and also in the year of survey.

31. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/40.1/1180 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

32. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 603 of 2023

Date of Institution: 29.11.2022

Date of Order: 24.07.2023

Present: Appellant/Claimant Dipankar Vaidh S/o Tapos Vaidh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-70, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-70 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/41/15.2/1051 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 603 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

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4. The statement of the Appellant/Claimant has been recorded before us on 01.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-70 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Dipankar, has been recorded before us on 01.05.2023 wherein he has stated that his parents, Tapas & Meera, are having three sons, Dipankar, Dilip & Vipul. Meera had expired ion 11.03.2021. All the children are married. Vipul is married with Anjana and having two children, Kirti & Parth. Vipul along with his family is living on rent in Faridabad. Dilip was married with Puja and having two children, Nitesh & Kaushik. Puja had expired in the year 2021 and Dilip had also expired on 04.01.2022. Dipankar (Appellant/Claimant) is married with Mithu and having two daughters, Drishti & Srishti.

8. The Appellant/Claimant has stated that his family is having a triple storey Jhuggi No. A-70, Bhoomiheen Camp, Kalkaji and it comprises of one room on each floor and a staircase has been constructed outside in the gali for going to the upper floor and further, an iron ladder is placed on the first floor for going to the second floor.

9. The Appellant/Claimant has stated that his parents, Tapas & Meera (un till her death on 11.03.2021) are living on the ground floor of Jhuggi No. A-70 and regarding that DDA has

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made allotment in favour of his mother Meera but after her death, the mutation has been sanctioned in favour of his father Tapas. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that Dilip along with his wife Puja and children was living on the first floor of the said Jhuggi No. A-70. Puja had expired in the year 2021 and Dilip had also expired on 04.01.2022. Dilip in his lifetime has sought allotment from DDA against the first floor of the Jhuggi No. A-70 but his claim was rejected by the Eligibility Determination Committee but neither Dilip nor any of his legal heirs had preferred to file Appeal before the Appellate Authority. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Mithu and both the daughters Drishti & Srishti, has been living on the second floor of the Jhuggi No. A-70. The Appellant/Claimant has sought allotment from DDA against the second floor of the said Jhuggi No. A-70 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 603 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-J in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey records along with seven video clip of Jhuggi No. A-70. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 01.05.2023 wherein the Appellant/Claimant has stated that three video clips pertain to the ground floor in which his father Tapas is seen getting the survey conducted on behalf of his wife Meera and further, the room & kitchen of Tapas/Meera is also seen. The next two video clips pertain to the first floor of the Jhuggi No. A-70 in which Nitesh S/o Dilip & Dipankar (Appellant/Claimant) is seen getting the survey conducted on behalf of Dilip (since deceased) against the first floor and further, room & kitchen of Dilip is also seen. The next two video clips pertain to the second floor in which the Appellant/Claimant Dipankar is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No A-70 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used by the parents ,Tapas & Meera, of the present Appellant/ Claimant whereas the first floor is used for residential purposes by the family of his brother, Dilip (since deceased) and the second floor is used for residential purposes by Dipankar (Appellant/ Claimant of Appeal No. 603 of 2023).

13. Accordingly, we have no hesitation in holding that the four storey Jhuggi No A-70, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

14. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in

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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 whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

15. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in her favour.

16. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015 as he is having a joint Ration Card issued in the name of his mother Anjali. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/41/15.2/1051 dated 07.11.2022.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.

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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 is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

18. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is

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one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

19. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

20. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

21. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

22. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the

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policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

23. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

24. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

25. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for

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the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

26. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

27. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

28. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against second floor as per the policy guidelines issued by DDA.

29. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

30. The Appellant/Claimant has tendered his Voter ID Card No. CXY 1079383 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

31. It is pointed out that the Voter ID Card No. CXY 1079383 (Annexure-A) has been issued on 27.10.2008, much prior to the cut off date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 348 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 483 in the Voter List of the year 2019 (Annexure-J). Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card No. CXY 1075142 and his name appear in the Voter List of 2014 & of the year of survey.

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32. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-70 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-H), which has been issued on 28.04.2014 in favour of his mother Meera and the name of the Appellant/Claimant is also mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-70 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. The Appellant/Claimant has tendered the Voter ID Card No. ARE 1133529 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Mithu and Electricity Bill (Annexure-G).

34. It is pointed out that the Voter ID Card (Annexure-D) has been issued on 01.01.2008. The Electricity Bill (Annexure-G) shows that the connection has been taken on 19.05.2008 by his father Tapas on the ground floor of the Jhuggi No. A-70 thereby showing that the Appellant/Claimant was not having an electricity connection on the second floor of the Jhuggi No. A-70 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

35. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 issued on the address of second floor of the Jhuggi No. A-70 regarding which he is claiming allotment from DDA and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

36. Accordingly, we have no hesitation in holding that the Jhuggi on the second floor bearing No. A-70 against which the Appellant/ Claimant is claiming allotment is not covered under the definition of upper floor under Part–B Para 10 of the policy and further he was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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37. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/41/15.2/1051 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

38. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 705 of 2023

Date of Institution: 06.02.2023

Date of Order: 24.07.2023

Present: Appellant/Claimant Mintoo Vishwas S/o Mihir Vishwas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-437, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-437 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/60.2/1018 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 705 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 30.06.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support

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of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-437 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Mintoo Viswas, has been recorded before us on 30.06.2023 wherein he has stated that his parents, Mihir & Suchitra, are having two sons, Tushar & Mintoo and three daughters, Radha, Vinita & Lalita. Radha & Vinita are married whereas all the remaining siblings are unmarried. Radha & Vinita are living in their respective matrimonial homes in Delhi.

8. The Appellant/Claimant has stated that his parents, Mihir & Suchitra, are having a triple storey Jhuggi No. C-437 and it comprises of one room on each floor and an iron ladder is placed inside the room on the ground floor for going to the upper floor. His family is having a joint kitchen on the ground floor.

9. The Appellant/Claimant has stated that the first and the second floors are not having independent access from the gali but an iron ladder has been placed inside the room on the ground floor for going to the upper floor. This shows that the first and the second floors of the Jhuggi No. C-437 are not separate & independent dwelling units because they are not having an independent access from the gali. However, in order to reach the first and the second floors, one has to use the iron ladder, which has been placed inside the room on the ground floor. Therefore, both the first and the second floors of Jhuggi No. C-437 are not separate & independent dwelling units but both are part & parcel of one

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dwelling unit of his parents, Mihir & Suchitra, on the ground floor bearing Jhuggi No. C-437 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggi No. C-437 are not having any independent access from the gali but in order to reach the upper floors, one has to use the iron ladder has been placed inside the room on the ground floor. Therefore, the ground, first & the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-437 of parents, Mihir & Suchitra, for all purposes.

11. The Appellant/Claimant has stated that his parents, Mihir & Suchitra, along with their unmarried daughter, Lalita, is living on the ground floor of the Jhuggi No. C-437 regarding that DDA has made allotment in favour of his mother Suchitra. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that his brother Tushar is living on the first floor of Jhuggi No. C-437 and he has claimed allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 704 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that he is living on the second floor of the Jhuggi No. C-437. The Appellant/Claimant has sought allotment from DDA. But his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 705 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is pointed out that both the appeals bearing no. 704 of 2023 & 705 of 2023 shall be placed separately on their respective claim.

15. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-437. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 30.06.2023 wherein he has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-437 in which his mother Suchitra, is seen and further, her room & kitchen on the ground floor is seen and further, an iron ladder placed inside the room on the ground floor for going to the upper floor is also seen. The second video clip pertains to the first floor of the Jhuggi No. C-437 in which Tushar, is seen and his room is also seen but no kitchen is seen on the first floor. The third video clip pertains to the second floor of the Jhuggi No. C-437 in which the Appellant/Claimant, Mintoo is seen and his room is also seen but no kitchen is seen on the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No.C-437 was in existence in the Bhoomiheen Camp

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on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Mihir & Suchitra, whereas the first floor is used for residential purposes by Tushar (Appellant/ Claimant of Appeal No. 704 of 2023) and the second floor is used for residential purposes by Mintoo (Appellant/ Claimant of Appeal No. 705 of 2023).

16. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. C-437 are not having any independent access from the gali but in order to reach the upper floors one has to use the iron ladder has been placed inside the room on the ground floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-437 of his parents, Mihir & Suchitra, for all purposes.

17. Thereby keeping in view that the first and the second floors of Jhuggi No. C-437 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-437 of his parents, Mihir & Suchitra, for all purposes and DDA has already made allotment in favour of his mother, Suchitra, regarding the said Jhuggi No. C-437. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Suchitra W/o Mihir, therefore, Tushar Vishwas (Appellant/Claimant of Appeal No. 704 of 2023) is not entitled to seek second allotment from DDA against the first floor and similarly Mintoo (Appellant/Claimant of Appeal No. 705 of 2023) also cannot seek allotment from DDA against the second floor of that very Jhuggi No. C-437. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the second floor because it is part & parcel of single dwelling unit bearing Jhuggi No. C-437 of his mother Suchitra W/o Mihir. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No.C-437 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the second floor of the said Jhuggi for residential purposes.

19. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

20. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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21. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. The upper floor only denotes first floor and not all the floors above the first floor meaning thereby the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that she/he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

It is also argued that in the present appeal the Appellant/ Claimant has claimed allotment against the second floor, which is not included in the definition of upper floor. Thus it is argued that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she has claimed allotment against the second floor, which is not included in the definition of upper floor and further he was not having a separate ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/60.2/1018 dated 07.11.2022.

22. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the jhuggi is being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case,

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the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

23. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

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24. It is pertinent to point out that initially alternative allotment was allowed only to the dweller living on the ground floor thereby altogether ignoring the dwellers, who were living on the upper floors. But subsequently DDA had amended its policy thereby allowing alternative allotment to the dweller living on the first floor also if they possess requisite documents. The condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

25. It is pointed out that in the policy the words *"First Floor or Second Floor or Third Floor"* are intentionally not used but the word *"Upper Floor"* is used. So in the cases where the Jhuggi is double storey there is no confusion because the "First Floor" of that Jhuggi without confusion is covered under the definition of *"Upper Floor"*. But in the cases where the Jhuggi is constructed more than double storey, then dispute arises with respect to the definition of *"Upper Floor"*. The moot question involved is whether the dwellers living on the second floor or third floor, akin to the dweller living on the first floor, shall also be entitled for alternative allotment if they possess requisite documents or not. In simple terms whether the word "Upper Floor" only connotes the "First Floor" or it also includes "Second Floor" & "Third Floor" of the Jhuggi.

26. But as mentioned above, DDA has amended its policy to allow the dweller living on the first floor to seek alternative allotment if they possess separate Ration Card and there is no doubt instead of using the word "First Floor" the word "Upper Floor" has been used and this has created unnecessary confusion. But keeping in view the very objective of DDA policy this concession cannot be further expanded to include the dweller living on the second & third floors. Furthermore, the words "Upper Floor" cannot be interpreted to be used in plural as "Upper Floors" by taking the help of Section 13 of General Clauses Act, 1897, which runs as under: -

"13. Gender and number:- In all Central Acts and Regulations unless there is anything repugnant in the subject or context,-

(1) words importing the masculine gender shall also be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

27. The bare perusal of Part–B Para 10 of DDA policy shows that it is unambiguous and clear and it speaks about "Upper Floor" only and not for "Upper Floors". Furthermore, the policy guidelines issued by DDA is neither Central Act nor Regulations and accordingly the provisions of General Clauses Act, 1897 is not applicable especially when the language is unambiguous and crystal clear. This shows that the words "Upper Floor" used in the policy guidelines issued by DDA does not mean "Upper Floors". Accordingly, "Upper Floor" means the first floor of the Jhuggi irrespective of the facts whether it is double storey or triple storey or more. Therefore, the DDA policy makes only the dweller living on the ground floor & first floor eligible for alternative allotment subject to fulfillment of

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conditions with a specific condition for the dwellers living on the first floor that they must have a separate Ration Card. But the dwellers living on the second floor and third floor (above first floor) of a Jhuggi are not entitled for alternative allotment.

28. Thus we have no hesitation in holding that the words *"Upper Floor"* used in the DDA policy without confusion connotes and includes only the "First Floor" of the Jhuggi. Thus the "Second Floor" & "Third Floor" of the Jhuggi are not included in the definition of the words *"Upper Floor"* used in the policy. In simple terms the word "Upper Floor" only connotes the "First Floor" of the Jhuggi and it does not include the "Second Floor" & "Third Floor" of the Jhuggi.

In view of the matter the words "upper floor" used in Part–B Para 10 of the DDA policy only denotes first floor and not all the floors above the first floor meaning thereby that the second and above floors are not included in the definition of upper floor. Therefore, dwellers living on the second & third floors are not eligible to seek alternative allotment but only the dweller living on the first floor is eligible for claiming allotment against first floor (Upper Floor) and for that he is mandatorily required to have a separate Ration Card on the cut off date of 01.01.2015.

29. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor (First Floor). This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor (First Floor) is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor (First Floor), to have a ration card issued before the cutoff date of 01.01.2015

GIST OF THE POLICY

30. The bare perusal of the Policy shows that for claiming allotment for upper floor (First Floor) the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

31. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant, who is admittedly living on the second floor, is entitled to seek allotment from DDA and further whether the Appellant/Claimant

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was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015.

32. It is pointed out that as per our discussion in detail above, we have held that the second floor is not covered under the definition of "Upper Floor" under the policy/guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he has claimed allotment against the second floor, which is not included in the definition of upper floor under Part–B Para 10 of the policy.

33. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the second floor as per the policy guidelines issued by DDA.

34. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour.

35. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1578938 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-I) and Voter List of the year 2019 (Annexure-J).

36. It is pointed out that the Voter ID Card No. ARE 1578938 (Annexure-A) has been issued on 12.10.2012, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 43 in the Voter List of the year 2014 (Annexure-I) and at Sl. No. 62 in the Voter List of the year 2019 (Annexure-J). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut- off date of 01.01.2015 and his name also not appears in the Voter List of the year's 2014 & of the year of survey.

37. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-437 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-G), which has been issued on 25.06.2008, in favour of his father, Mihir, and the name of the Appellant/Claimant is also mentioned. The Appellant/Claimant has tendered his joint Ration Card (Annexure-H), which has been issued in favour of his mother, Suchitra, on 12.12.2014 and the name of the Appellant/Claimant is also mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of second floor of the Jhuggi No. C-437 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not

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fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

38. The Appellant/Claimant has tendered the Electricity Bill (Annexure-D), the Birth Certificate (Annexure-E) and Caste Certificate (Annexure-F).

39. It is pointed out that the Electricity Bill (Annexure-D) shows that his father Mihir had taken the connection on 29.05.2008 on the ground floor of the Jhuggi No. C-437, thereby, showing that the Appellant/Claimant was not having connection on the second floor of the Jhuggi No. C-437 regarding which he is claiming allotment from DDA. The birth Certificate (Annexure-E) has been issued on 11.03.2013 thereby showing that date of birth of the Appellant/Claimant is 26.12.1993. The Caste Certificate (Annexure-F) of the Appellant/Claimant has been issued on 03.02.2016. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

40. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. C-437 has also been found to be one dwelling unit bearing Jhuggi No. C-437 of Suchitra W/o Mihir for all purposes and DDA has already made allotment in favour of Suchitra (mother of the Appellant/Claimant) regarding the said Jhuggi No. C-437. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-J, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

41. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further he has claimed allotment against the second floor, which is not covered under the definition of upper floor under Part–B Para 10 of the policy and further all the three floors of Jhuggi No. C-437 has also been found to be part & parcel of one dwelling unit bearing Jhuggi No. C-437 of Suchitra W/o Mihir for all purposes and DDA has already made allotment in favour of Suchitra (mother of the Appellant/Claimant) regarding the said Jhuggi No. C-437 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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42. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/60.2/1018 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

43. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 704 of 2023

Date of Institution: 06.02.2023

Date of Order: 24.07.2023

Present: Appellant/Claimant Tushar Vishwas S/o Mihir Vishwas

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-437, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-437 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/60.1/1017 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 704 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 30.06.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support

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of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-437 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified // No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Tushar, has been recorded before us on 30.06.2023 wherein he has stated that his parents, Mihir & Suchitra, are having two sons, Tushar & Mintoo and three daughters, Radha, Vinita & Lalita. Radha & Vinita are married whereas all the remaining siblings are unmarried. Radha & Vinita are living in their respective matrimonial homes in Delhi.

8. The Appellant/Claimant has stated that his parents, Mihir & Suchitra, are having a triple storey Jhuggi No. C-437 and it comprises of one room on each floor and an iron ladder is placed inside the room on the ground floor for going to the upper floor. His family is having a joint kitchen on the ground floor.

9. The Appellant/Claimant has stated that the first and the second floors are not having independent access from the gali but an iron ladder has been placed inside the room on the ground floor for going to the upper floor. This shows that the first and the second floors of the Jhuggi No. C-437 are not separate & independent dwelling units because they are not having an independent access from the gali. However, in order to reach the first and the second floors, one has to use the iron ladder, which has been placed inside the room on the ground floor. Therefore, both the first and the second floors of Jhuggi No. C-437 are not separate & independent dwelling units but both are part & parcel of one

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dwelling unit of his parents, Mihir & Suchitra, on the ground floor bearing Jhuggi No. C-437 for all purposes.

10. Thus we have no hesitation in holding that the statement of the Appellant/Claimant accordingly shows that the first and the second floors of the Jhuggi No. C-437 are not having any independent access from the gali but in order to reach the upper floors, one has to use the iron ladder has been placed inside the room on the ground floor. Therefore, the ground, first & the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-437 of parents, Mihir & Suchitra, for all purposes.

11. The Appellant/Claimant has stated that his parents Mihir & Suchitra along with their unmarried daughter Lalita is living on the ground floor of the Jhuggi No. C-437 regarding that DDA has made allotment in favour of his mother Suchitra. These facts are not disputed by DDA.

12. The Appellant/Claimant has stated that his brother Mintoo is living on the second floor of Jhuggi No. C-437 and he has claimed allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the Appeal No. 705 of 2023 before the Appellate Authority for redressal. These facts are not disputed by DDA.

13. The Appellant/Claimant has stated that he is living on the first floor of the Jhuggi No. C-437. The Appellant/Claimant has sought allotment from DDA. But his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 704 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14. It is pointed out that both the appeals bearing no. 704 of 2023 & 705 of 2023 shall be placed separately on their respective claim.

15. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-437. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 30.06.2023 wherein he has stated that the first video clip pertains to the ground floor of the Jhuggi No. C-437 in which his mother Suchitra, is seen and further, her room & kitchen on the ground floor is seen and further, an iron ladder placed inside the room on the ground floor for going to the upper floor is also seen. The second video clip pertains to the first floor of the Jhuggi No. C-437 in which the Appellant/Claimant, Tushar, is seen and his room is also seen but no kitchen is seen on the first floor. The third video clip pertains to the second floor of the Jhuggi No. C-437 in which Mintoo is seen and his room is also seen but no kitchen is seen on the second floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that a triple storey Jhuggi No.C-437 was in existence in the Bhoomiheen

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Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Mihir & Suchitra, whereas the first floor is used for residential purposes by Tushar (Appellant/ Claimant of Appeal No. 704 of 2023) and the second floor is used for residential purposes by Mintoo (Appellant/ Claimant of Appeal No. 705 of 2023).

16. The admission of the Appellant/Claimant is a clincher piece of evidence and the same has been duly corroborated by the video clips furnished by the DDA prepared at the time of survey and it shows that the first and the second floors of the Jhuggis No. C-437 are not having any independent access from the gali but in order to reach the upper floors one has to use the iron ladder has been placed inside the room on the ground floor. Therefore, the first and the second floors are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-437 of his parents, Mihir & Suchitra, for all purposes.

17. Thereby keeping in view that the first and the second floors of Jhuggi No. C-437 are not separate and independent dwelling units but they constitute one dwelling unit bearing Jhuggi No. C-437 of his parents, Mihir & Suchitra, for all purposes and DDA has already made allotment in favour of his mother, Suchitra, regarding the said Jhuggi No. C-437. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. Since DDA has already made allotment in favour of Suchitra W/o Mihir, therefore, Tushar Vishwas (Appellant/Claimant of Appeal No. 704 of 2023) is not entitled to seek second allotment from DDA against the first floor and similarly Mintoo Vishwas (Appellant/Claimant of Appeal No. 705 of 2023) also cannot seek allotment from DDA against the second floor of that very Jhuggi No. C-437. But it seems that the Appellant/Claimant in collusion with other family members has tried to get maximum allotments from DDA by hook or crook. Therefore, the Appellant/ Claimant cannot claim allotment against the first floor because it is part & parcel of single dwelling unit bearing Jhuggi No. C-437 of his mother Suchitra W/o Mihir. Accordingly, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No.C-437 Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

19. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

20. The Appellant/ Claimant has stated that 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.

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21. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/60.1/1017 dated 07.11.2022.

22. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"**Part-B**

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

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As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

23. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

24. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

25. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have

only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

26. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

27. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

28. The Appellant/ Claimant has 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.

29. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2082096 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2019 (Annexure-G).

30. It is pointed out that the Voter ID Card No. ARE 2082096 (Annexure-A) has been issued on 26.11.2015, much after the cutoff date 01.01.2015 and the name of the Appellant/Claimant appears at Sl. No. 175 in the Voter List of the year 2019 (Annexure-G). The Voter ID Card No. ARE 2082096 (Annexure-A) has been issued on 26.11.2015, much after the cutoff date 01.01.2015, therefore, the question of the name of the Appellant/Claimant appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) does not arise. Therefore, we have no hesitation in holding that the Appellant/ Claimant was not having a Voter ID Card on the cut- off date of 01.01.2015 and his name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA

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31. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-437 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his joint Ration Card (Annexure-F), which has been issued in favour of his mother, Suchitra, on 12.12.2014 and the name of the Appellant/Claimant is also mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-437 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.

32. The Appellant/Claimant has tendered his birth certificate (Annexure-D), Caste Certificate (Annexure-E).

33. It is pointed out that the Birth Certificate (Annexure-D) has been issued on 11.03.2013, thereby, showing that the date of birth of the Appellant/Claimant is 09.11.1997. The Caste Certificate (Annexure-E) of the Appellant/Claimant has been issued on 03.02.2016 much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

34. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 and further all the three floors of Jhuggi No. C-437 has also been found to be one dwelling unit bearing Jhuggi No. C-437 of Suchitra W/o Mihir for all purposes and DDA has already made allotment in favour of Suchitra (mother of the Appellant/Claimant) regarding the said Jhuggi No. C-437. Accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA. The documents, Annexure-A to Annexure-G, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

35. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 and further all the three floors of Jhuggi No. C-437 has also been found to be part & parcel of one dwelling unit bearing Jhuggi No. C-437 of Suchitra W/o Mihir for all purposes and DDA has already made allotment in favour of Suchitra (mother of the Appellant/Claimant) regarding the said Jhuggi No. C-437 and accordingly, two allotments against the same Jhuggi are not permissible as per the policy issued by the DDA.

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Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

36. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/60.1/1017 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

37. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

24.7.2023

(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

24/7/2023

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

24/7/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 385 of 2023

Date of Institution: 29.11.2022

Date of Order: 25.07.2023

Present: Appellant/Claimant Virin Mandal S/o Ravi Mandal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-275, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-275 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/20.1/999 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 385 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 02.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support

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of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-275 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Virin Mandal, has been recorded before us on 02.05.2023 wherein he has stated that his parents, Ravi & Bakul, are having five sons, Virin, Dhirin, Ramesh, Rahul & Raju. Out of whom, only Virin (Appellant/Claimant) is married whereas the remaining sons are unmarried. Virin is married with Anna and having one son Akshat.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. C-275 and it comprises of one room on the ground floor and two rooms on the first floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Ravi & Bakul, along with their four unmarried sons are living on the ground floor and one room on the first floor of Jhuggi No. C-275 and regarding that DDA has made allotment in favour of his mother Bakul. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Anna & son Akshat is living in the second room on the first floor of the Jhuggi No. C-275. The Appellant/Claimant has sought allotment from DDA against the second room on the first floor of the Jhuggi No. C-

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275 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 385 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey records along with three video clips of Jhuggi No. C-275. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 02.05.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor in which his mother Bakul is seen and further, her room & kitchen are also seen. The second video clip pertains to the first room on the first floor of the Jhuggi No. C-275 in which his brother Ramesh is seen. The third video clip pertains to the second room on the first floor in which he (Virin - Appellant/Claimant) is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that double storey Jhuggi No C-275 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor and one of the room on the first floor has been used for residential purposes by his parents and their unmarried four sons whereas the second room on the first floor has been used for residential purposes by Virin Mandal (Appellant/ Claimant of Appeal No. 385 of 2023).

12. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No C-275, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using one of the room on the first floor of the said Jhuggi for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration

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Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/20.1/999 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.
> - Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
> - Passbook issued by public sector Bank/Post Office with photograph.
> - SC/ST/OBC certificates issued by Competent Authority with photograph.
> - Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.

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- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration

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Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

21. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

22. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

23. It is pointed out that the Appellant/Claimant had tendered his two Voter ID Cards (Annexure-A & Annexure-B) and both are bearing the same Number, i.e., ARE 1182138. The first Voter ID Card (Annexure-A) has been issued on 27.10.2008 and the second Voter ID Card (Annexure-B) has been issued on 28.04.2022. The name of the Appellant/Claimant appears at Sl. No. 156 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 188 in the Voter List of the year 2019 (Annexure-K). Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 and his name appear in the Voter List of 2014 & of the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. C-275 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-275 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Caste Certificate (Annexure-E), Passbook of PNB (Annexure-F) as well as the Voter ID Card No. ARE 2570087 (Annexure-G), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of his wife Anna.

26. It is pointed out that the Caste Certificate (Annexure-E) has been issued on 10.06.2022. The Passbook of PNB shows that the Appellant/Claimant had opened the account on

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29.12.2009. Further, the Voter ID Card (Annexure-G) of Anna has been issued on 21.12.2021. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/20.1/999 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 432 of 2023

Date of Institution: 29.11.2022

Date of Order: 25.07.2023

Present: None for the Appellant/ Claimant Babblu S/o Ram Avtar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-335, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-335was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/15.1/1552 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 432 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person in spite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-335 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on

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23.01.2023 for 23.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 13.04.2023. Fresh notice was issued on 13.04.2023 to procure his presence on 30.05.2023. But the file was taken up on 08.05.2023 and the appeal was fixed for 26.05.2023 to give priority and fresh notice was issued to procure his presence for 26.05.2023.

7. The Appellant/Claimant had failed to appear on 26.05.2023 and accordingly fresh notice was issued for 26.06.2023 to procure his presence. But the file was again taken up on 30.05.2023 and thereafter on 27.06.2023 and the matter was ultimately fixed for 21.07.2023. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

8. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 25.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 519 of 2023 instituted on 02.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

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11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/15.1/1552 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 432 of 2023 instituted on 29.11.2022 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 511 of 2023

Date of Institution: 02.12.2022

Date of Order: 25.07.2023

Present: Appellant/Claimant Shyamal Bhadra S/o Sumiran Bhadra

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-247, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-247 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/98.1/869 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 539 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 08.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-N, in support

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of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-247 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-J, in support of his claim and prayed that DDA be directed to make allotment in his favour. It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents. Merely not having a separate ration card is of no consequence since he has furnished documents in proof of residence other than ration card. The Appellant/ Claimant contends that fresh ration cards are not being issued by GNCTD and to support his contention he has placed reliance on the Authority of the Hon'ble High Court of Delhi dated 05.08.2022 in W.P. (C) 11633/2022, CM Application 34509/2022 titled "Poonam versus Union of India & Ors".

8. The Appellant/ Claimant has further contended that the purpose of the policy formulated by DDA is to ensure rehabilitation and relocation to economically weaker sections and would have to be interpreted in a broader and beneficial manner rather than in a narrow and pedantic manner by placing reliance on the Authority of the Hon'ble High Court of Delhi dated 30.01.2023 in W.P. (C) 315/2020 & CM Application 929/2020 titled "Smt. Beni versus Government of NCT Delhi & Ors." and another Authority of the Hon'ble High Court of Delhi dated 11.02.2010 in W.P. (C) 8904/2009, 7735/2007, 7317/2009 and 9246/2009 titled "Sudama Singh & Ors. versus Government of Delhi & Anr." and another

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Authority of the Hon'ble High Court of Delhi dated 04.07.2022 in W.P. (C) 4785/2008 & CM Application 9216/2008 titled "Samarpal & Ors. versus UOI & ors."

9. On the other hand it is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/98.1/869 dated 07.11.2022.

10. We have no dispute with regard to the proposition of law laid down in the authorities relied upon by the Appellant/ Claimant. It is humbly pointed out that Poonam's case supra is still pending and no final order has been passed. Therefore, rival contentions made in the pleadings of that case cannot take place of the proof. However, there is no doubt that the Appellate Authority has to take a holistic view of the matter and is required to consider all the documents before arriving at a conclusion as to whether the Appellant/ Claimant is entitled to rehabilitation or not. The appeal filed by the Appellant/ Claimant cannot be rejected by taking a narrow and pedantic manner but all the documents which may establish residence at the Jhuggi on the relevant date of 01.01.2015 have to be considered holistically. On this aspect reliance can also be placed on the Authority of the Hon'ble High Court of Delhi dated 01.08.2017 in W.P. (C) 5378/2017, CM Application 22718/2017 titled "Udal & Ors versus Delhi Urban Shelter Improvement Board & Ors".

11. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.

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5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

12. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list

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shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

13. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

14. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

15. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year' s 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

16. In the light of our discussion above, we shall now appraise the material placed on file by taking holistic & realistic view to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against first floor as per the policy guidelines issued by DDA.

17. The statement of the Appellant/ Claimant, Shyamal Bhadra, has been recorded before us on 08.05.2023, wherein he has stated that his parents, Samiran Bhadra & Deepti are

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having two sons, namely, Shyamal and Sanjeev Bhadra and two daughters, namely, Shikha & Shivani. All the children are married. Shikha is married with Vivek and she is living in her matrimonial home in Ghaziabad. Shivani is married with Kunju Singh Thakur and living on the ground floor of Jhuggi No. C-248, Bhoomiheen Camp. Sanjeev Bhadra is married with Gayatri. Shyamal (Appellant/Claimant) is married with Madhumita and having one daughter Bhoomi.

18. The Appellant/ Claimant has stated that his family is having two adjoining Jhuggis bearing No. C-247 and C-248.

JHUGGI No. C-248

19. The Appellant/ Claimant has also stated that the Jhuggi bearing number C-248 is a double storey Jhuggi comprising of one room on each floor. The Appellant/ Claimant has also stated that his sister Shivani along with her family is living on the ground floor of the said Jhuggi No. C-248 and regarding that DDA has made allotment in favour of his sister Shivani. These facts are not disputed by DDA.

20. The Appellant/ Claimant has also stated that his brother Sanjeev along with his family is living on the first floor of the said Jhuggi of Shivani, which is bearing Jhuggi No. C-248/B. The Appellant/ Claimant has sought allotment from DDA against the said Jhuggi. But his claim has been rejected by DDA and aggrieved by the same he has filed the present Appeal No. 558 of 2023 before the Appellate Authority for redressal but it has also been rejected on 31.03.2023. These facts are not disputed by DDA.

JHUGGI No. C-247

21. The Appellant/ Claimant has stated that the second Jhuggi No. C-247 is a double storey Jhuggi and it comprises of one room on each floor. His parents, Samiran Bhadra & Deepu, are living on the ground floor of the said Jhuggi No. C-247 and regarding that DDA has made allotment in favour of his mother, Deepu. These facts are not disputed by DDA.

22. The Appellant/ Claimant has stated that he along with his wife Madhumita & daughter, Bhoomi, is living on the first floor of the said Jhuggi No. C-247. The Appellant/ Claimant has sought allotment from DDA against the first floor of the said Jhuggi but his claim was rejected by EDC and aggrieved by the same he has filed the present appeal No. 511 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-N, and prayed that DDA be directed to make allotment in his favour.

23. DDA has furnished the survey records along with two video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 02.05.2023 wherein he has stated that the video clip pertains to the ground floor of Jhuggi No. C-247 in which his mother Deepu is seen and further her room & kitchen are also seen. The second video clip pertains to the first floor of Jhuggi No. C-247 in which he (Shyamal-Appellant/Claimant) is seen and further his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey pucca Jhuggi No. C-247 was in existence in the Bhoomiheen

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Camp on the cut off date of 01.01.2015 and the Appellant/Claimant has been using the first floor of the said Jhuggi for residential purposes.

24. Accordingly, we have no hesitation in holding that the Jhuggi No. C-247 in Bhoomiheen Camp is a pucca double storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and the Appellant/Claimant & his family has been using the first floor of the said Jhuggi for residential purposes.

25. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

26. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-N, in support of his claim and prayed that DDA be directed to make allotment in his favour.

27. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1173889 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

28. It is pointed out that the Voter ID Card No. ARE 173889 (Annexure-A) has been issued on 17.03.2022, much after the cut off date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 1072 in the Voter List of the year 2014 (Annexure-L) and at Sl. No. 1154 in the Voter List of the year 2019 (Annexure-M) and the number of his Voter ID Card has been mentioned to be bearing number ARE 173889. It shows that the original Voter ID Card No. ARE 173889 must have been issued much earlier to 17.03.2022 as it has been reflected in the Voter list of the year 2014 (Annexure-L) & also in the Voter List of the year 2019 (Annexure-M) but the original is not placed on file to ascertain the date of its issuance. The duplicate Voter ID Card (Annexure-A) has been issued on 17.03.2022 but the original was in existence even in the year 2014 and that is why it has been reflected in the Voter List of the year 2014 (Annexure-L) and also in the Voter List of the year 2019 (Annexure-M). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 and his name appear in the Voter List of 2014 & of the year of survey.

29. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. C-247 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered the Application dated 20.09.2013 (Annexure-K) made by his wife Madhumita for issuance of the Ration Card. The Appellant/Claimant has also tendered another

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application dated 24.01.2022 (Annexure-N) for adding the names of the family members in the Ration Card No. 077005295251 and the same was approved on 25.01.2022 as per the information, which has been downloaded from the internet. It is pointed out that the Appellant/Claimant has categorically admitted that he has not filed the copy of the said Ration Card No. 077005295251. This shows that the Appellant/Claimant had chosen not to place the copy of this Ration Card No. 077005295251 on file for the reasons best known to him. This shows that the relevant documents have been withheld and accordingly adverse inference is drawn. It is also pointed out that the Application (Annexure-K & Annexure-N) are of no help to the Appellant/Claimant because the policy guidelines of the DDA requires that the dweller claiming allotment against the upper floor must have a separate Ration Card on the cut off date of 01.01.2015. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-247 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

30. The Appellant/Claimant has tendered his Driving Licence (Annexure-D), Passbook of Bank of India (Annexure-E), Electricity Bill (Annexure-F) as well as the Voter ID Card No. ARE 2082022 (Annexure-G), Aadhar Card (Annexure-H), PAN Card (Annexure-I) & Passbook of Bank of India (Annexure-J) of his wife Madhumita.

31. It is pointed out that the Driving Licence of the Appellant/Claimant (Annexure-D) has been issued on 10.01.2019. The Passbook of Bank of India (Annexure-E) shows that the account has been opened by the Appellant/Claimant on 10.02.2023. The Voter ID Card No. ARE 2082022 (Annexure-G) has been issued on 03.03.2022. The Passbook of Bank of India (Annexure-J) shows that the account has been opened by Madhumita on 05.01.2022. All these documents have been issued much after the cut off date 01.01.2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

32. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cut off date of 01.01.2015 in spite of the fact that he has claimed allotment against the first floor. The documents, Annexure-A to Annexure-N, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 issued on the address of first floor of Jhuggi No. C-247 regarding which he has claimed allotment from DDA. Therefore,

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Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

33. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living separately & independently on the cutoff date of 01.01.2015 on the first floor of the said Jhuggi No. C-276 but he is unmarried and was living jointly with his parents on the cutoff date of 01.01.2015. But in collusion with his family members he had filed wrong & false claim to maximize allotments against Jhuggi No. C-276 by hook or crook. Further DDA has already made allotment in favour of his mother Radha against Jhuggi No. C-276 and accordingly two allotments against that Jhuggi is not permissible as per the guidelines issued by DDA and further the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01..01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor of Jhuggi No. C-276. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2015 and also in the year of survey.

34. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/98.1/869 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

35. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 519 of 2023

Date of Institution: 02.12.2022

Date of Order: 25.07.2023

Present: None for the Appellant/ Claimant Piyush Dev S/o Paritosh Dev

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-428, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-428 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/53.1/1014 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 519 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person in spite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-428 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on

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01.02.2023 for 23.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 23.03.2023. Fresh notice was issued on 23.03.2023 to procure his presence on 13.04.2023 but he did not appear on 13.04.2023. On 13.04.2023 fresh notice was issued for 09.05.2023. But the file was taken up on 08.05.2023 as we had not conducted proceedings on 09.05.2023 and the appeal was fixed for 27.06.2023 to give priority and fresh notice was issued to procure his presence for 21.06.2023. But the file was again taken up on 30.05.2023 and thereafter on 27.06.2023 and the matter was ultimately fixed for 21.07.2023. But the Appellant/ Claimant had failed to appear on 21.07.2023 inspite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 25.07.2023 inspite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 519 of 2023 instituted on 02.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

10. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013,

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2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

11. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

12. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/53.1/1014 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 519 of 2023 instituted on 02.12.2022 is dismissed being devoid of any merit.

13. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 539 of 2023

Date of Institution: 05.12.2022

Date of Order: 25.07.2023

Present: Appellant/Claimant Balai Mandal S/o Ganesh Mandal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-276, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-276 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/19.1/998 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 539 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

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4. The statement of the Appellant/Claimant has been recorded before us on 05.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-276 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Balai Mandal, has been recorded before us on 05.07.2023 wherein he has stated that his parents, Ganesh & Radha, are having two sons, Nivai & Balai and one daughter Gita. All the children are unmarried.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No.C-276 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor. The Appellant/Claimant has stated that his parents, Ganesh & Radha, along with their unmarried daughter, Gita, are living on the ground floor of the Jhuggi No. C-276 and regarding that DDA has made allotment in favour of his mother, Radha. These facts are not disputed by DDA.

9. The Appellant/Claimant has stated that he along with his unmarried brother, Nivai, is living on the first floor of the Jhuggi No. C-276. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-276 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 539 of 2023 before the Appellate Authority for redressal.

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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.

10. DDA has furnished the survey records along with one video clip of Jhuggi No. C-276. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 05.07.2023 wherein the Appellant/Claimant has stated that the video clip pertains to the ground floor in which his mother Radha is seen and further, her room & kitchen on the ground floor are also seen.

11. It is pertinent to point out that the Appellant/Claimant has specifically stated that he has not got the video prepared during the survey conducted on the first floor of Jhuggi No. C-276 and accordingly, no video clip of first floor was prepared. It is pointed out that the Appellant/Claimant has stated that they are two brothers, Nivai & Balai and one sister, Gita and they all three are unmarried and it shows that they all are living jointly with their parents, Ganesh & Radha, and that is why no video clip was prepared of first floor because the Appellant/Claimant very well knew that there was no kitchen on the first floor.

12. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that double storey Jhuggi No C-276 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and the Appellant/Claimant was not living separately & independently on the first floor of the said Jhuggi No. C-276 but he is unmarried and he is living jointly with his parents but in collusion with his family members he had filed wrong & false claim to maximize allotments against Jhuggi No. C-276 by hook or crook. Further DDA has already made allotment in favour of his mother Radha against Jhuggi No. C-276 and accordingly two allotments against that Jhuggi is not permissible as per the guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. 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

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Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/37/19.1/998 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.

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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

21. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

22. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1970607 (Annexure-A), Aadhar Card (Annexure-B), Driving Licence (Annexure-C), Voter List of the year 2015 (Annexure-D) and Voter List of the year 2019 (Annexure-E).

23. It is pointed out that the Voter ID Card No. ARE 1970607 (Annexure-A) has been issued on 29.08.2014, much prior to the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 9 in the Voter List of the year 2015 (Annexure-D) and at Sl. No. 14 in the Voter List of the year 2019 (Annexure-E). Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 and his name appear in the Voter List of 2015 & of the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. C-276 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-276 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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25. The Appellant/Claimant has tendered his Driving Licence (Annexure-C) in support of his claim.

26. It is pointed out that the Driving Licence (Annexure-C) has been issued on 22.03.2017, much after the cut off date 01.01.2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

27. The material placed on file shows that the Appellant/Claimant was not living separately & independently on the first floor of the said Jhuggi No. C-276 on the cutoff date of 01.01.2015 but he is unmarried and was living jointly with his parents but in collusion with his family members he had filed wrong & false claim to maximize allotments against Jhuggi No. C-276 by hook or crook. Further DDA has already made allotment in favour of his mother Radha against Jhuggi No. C-276 and accordingly two allotments against that Jhuggi is not permissible as per the guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the first floor of Jhuggi No. C-276. The documents, Annexure-A to Annexure-E, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

28. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living separately & independently on the cutoff date of 01.01.2015 on the first floor of the said Jhuggi No. C-276 but he is unmarried and was living jointly with his parents on the cutoff date of 01.01.2015. But in collusion with his family members he had filed wrong & false claim to maximize allotments against Jhuggi No. C-276 by hook or crook. Further DDA has already made allotment in favour of his mother Radha against Jhuggi No. C-276 and accordingly two allotments against that Jhuggi is not permissible as per the guidelines issued by DDA and further the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor of Jhuggi No. C-276. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2015 and also in the year of survey.

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29. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/37/19.1/998 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

30. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 661 of 2023

Date of Institution: 07.12.2022

Date of Order: 25.07.2023

Present: None for the Appellant/ Claimant Sonu S/o Govind

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-206, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-206 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/3.1/749 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 661 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-206 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before

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us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 15.02.2023 for 13.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 13.03.2023. Fresh notice was issued on 13.03.2023 to procure his presence on 13.04.2023 and from 13.04.2023 to 22.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 14.08.2023 to give priority and fresh notice was issued to procure his presence for 14.08.2023. The file was taken up on 27.06.2023 to give priority and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 25.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 661 of 2023 instituted on 02.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

10. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that

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the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

11. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

12. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/18/3.1/749 dated 07.12.2022. Hence the same is upheld. Consequently, the present Appeal No. 661 of 2023 instituted on 07.12.2022 is dismissed being devoid of any merit.

13. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 668 of 2023

Date of Institution: 18.01.2023

Date of Order: 25.07.2023

Present: None for the Appellant/ Claimant Anoop Sarkar S/o Govind Sarkar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-255, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-255 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/099.1-A/871 dated

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07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 668 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-255 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before

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us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 15.02.2023 for 13.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 13.03.2023. Fresh notice was issued on 13.03.2023 to procure his presence on 13.04.2023 and from 13.04.2023 to 26.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 17.08.2023 to give priority and fresh notice was issued to procure his presence for 17.08.2023. The file was taken up on 27.06.2023 to give priority and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 25.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 668 of 2023 instituted on 08.01.2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

10. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that

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the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

11. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

12. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/0991.1-A/871 dated 07.12.2022. Hence the same is upheld. Consequently, the present Appeal No. 668 of 2023 instituted on 07.12.2022 is dismissed being devoid of any merit.

13. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranbir Singh)	**(Satish Ahlawat)**	**(Rachna Tiwary)**
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

(5)

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Date of Order: 25.07.2023

Present: None for the Appellant/ Claimant Anoop Sarkar S/o Govind Sarkar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

None appeared today on behalf of the Appellant/Claimant. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 15.02.2023 for 13.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 13.03.2023. Fresh notice was issued on 13.03.2023 to procure his presence on 13.04.2023 and from 13.04.2023 to 26.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 17.08.2023 to give priority and fresh notice was issued to procure his presence for 17.08.2023. The file was taken up on 27.06.2023 to give priority and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

But the Appellant/Claimant has neglected and failed to join the proceedings before us on 25.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the

Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 668 of 2023 instituted on 18.01.2023 in default and accordingly rejecting the same we have appraised the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternative allotment as per policy guidelines issued by DDA.

Vide our detailed order of even date (25.07.2023) we have hold that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/099.1-A/871 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 668 of 2023 instituted on 07.12.2022 is dismissed being devoid of any merit.

Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 732 of 2023

Date of Institution: 07.12.2022

Date of Order: 25.07.2023

Present: Appellant/Claimant Mohd. Ashif S/o Rafik Ahmad

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-510, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-510 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/26/172.1/907 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 732 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

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4. The statement of the Appellant/Claimant has been recorded before us on 08.05.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-510 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Mohd. Asif, has been recorded before us on 08.05.2023 wherein he has stated that his parents, Rafiq & Naima, are having five sons, Nasir, Rashid, Sajid, Asif & Amir and five daughters; Samim, Salma, Shabana, Imrana & Farzana. Naima had expired about fifteen years ago. All the children are married. All the five daughters, Samim, Salma, Shabana, Imrana & Farzana are living in their respective matrimonial homes. Nasir is married with Imrana and having four children but Nasir has expired about five years ago. Rashid is married with Shabnam and having two children. Sajid is married with Sabila and having three children. Amir is married with Gulabsha and having one daughter. Asif (Appellant/Claimant) is married with Sonam and having three children; Safia, Alia & Insha.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-510. His parents along with families of Rashid, Sajid, Amir & Asif (Appellant/Claimant) are living on the ground floor of the Jhuggi No. C-510 and regarding that DDA has made allotment in favour of Rafiq. These facts are not disputed by DDA.

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9. The Appellant/Claimant has stated that his brother Nasir (since deceased) along with his family has been living on the first floor of the Jhuggi No. C-510. Nasir had died about five years ago. DDA had made allotment in favour of Imrana widow of Nasir against the first floor of Jhuggi No. C-510. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that previously he was living jointly with his parents and the families of his brothers Rashid & Sajid on the first floor of the Jhuggi No. C-510 but due to space constraints he had shifted to the first floor of the Jhuggi No. R-37 belonging to his cousin Anis S/o Jamal. The said Jhuggi No. R-37 is a triple storey Jhuggi. The said Anis S/o Jamal is running a shop from the ground floor of Jhuggi No. R-37 and has been living with his family on the second floor of the said Jhuggi.

11. The Appellant/Claimant has sought allotment from DDA against the Jhuggi No. C-510 but he has got the survey conducted on the first floor of the Jhuggi No. R-37. His claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, he has filed the present Appeal No. 732 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished the survey records along with two video clips of Jhuggi No. R-37. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 08.05.2023 wherein the Appellant/Claimant has stated that the first video clip pertains to the ground floor of Jhuggi No. R-37 in which Anis S/o Jamal is seen in his shop/office. The second video clip pertains to the first floor of the Jhuggi No. R-37 in which the Appellant/Claimant Asif is seen and further, his room & kitchen are also seen.

13. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that previously he was living jointly with his parents and also with the families of his brothers Rashid & Sajid on the ground floor of the Jhuggi No. C-510 but due to space constraint, he had shifted to the first floor of the Jhuggi No. R-37 of his cousin Anis S/o Jamal. However, it may be pointed out that the date, month & year of the Appellant/Claimant having shifted from the ground floor of the Jhuggi No. C-510 to the first floor of the Jhuggi No. R-37 is not disclosed. Furthermore, the Appellant/Claimant had also admitted that he is living on rent in Jhuggi No. R-37. This Jhuggi is a triple storey structure and Anis S/o Jamal is running a shop from the ground floor whereas he (Anis S/o Jamal) is living on the second floor of the Jhuggi No. R-37 and regarding that DDA had made allotment in favour of Anis S/o Jamal.

14. Here it is also pointed out that the Appellant/Claimant has claimed allotment against the Jhuggi No. C-510 of his parents but interestingly, in spite of getting the survey conducted of the Jhuggi No. C-510 he had got the survey conducted on the first floor of the Jhuggi No. R-37. The Appellant/Claimant had got the survey conducted of Jhuggi No. R-37 and in spite of that he has not claimed allotment against the said Jhuggi No. R-37 but

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interestingly had claimed allotment against Jhuggi No. C-510 thereby fully knowing that DDA has already made two allotments, namely, one allotment to his father Rafik Ahmad against the ground floor and the second allotment to his sister-in-law, Imrana W/o Nasir (his predeceased brother) against the first floor of the Jhuggi No. C-510. It is also pertinent to point that that the Appellant/Claimant has stated that he had got the survey conducted of the first floor of the Jhuggi No. R-37 whereas he is having all the documents issued on the address of the Jhuggi No. C-510. The Appellant/Claimant is admittedly a tenant under Anis S/o Jamal of Jhuggi No. R-37. DDA has also made allotment against the Jhuggi No. R-37 in favour of the said Anis S/o Jamal and accordingly, two allotments against the said Jhuggi is not permissible as per the guidelines issued by the DDA because the Appellant/Claimant is not claiming allotment independently but he is claiming allotment under the said Anis S/o Jamal. It is also pointed out that the Appellant/Claimant has acted in a clandestine manner in order to cheat and defraud DDA because he had sought allotment from DDA against the Jhuggi No. C-510 of his parents but had got the survey conducted against the first floor of Jhuggi No. R-37. This shows that the Appellant/Claimant had tried to grab allotment from DDA by hook or crook.

15. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that double storey Jhuggi No. C-510 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 but the Appellant/Claimant was not living separately & independently in the said Jhuggi No. C-510 because he had shifted to Jhuggi No. R-37 of his cousin Anis S/o Jamal to live on rent but in collusion with his family members he had filed wrong & false claim to maximize allotments against Jhuggi No. C-510 by hook or crook. Further as already been pointed out above DDA has already made allotment in favour of his father Rafik Ahmad against the ground floor and also in favour of his sister-in-law, Imrana W/o Nasir (his predeceased brother) against the first floor of Jhuggi No. C-510 and accordingly two allotments against that Jhuggi is not permissible as per the guidelines issued by DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

16. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

17. 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,

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the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/26/172.1/907 dated 07.11.2022.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.
>
> **As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:**
>
> - Passport.
> - Ration Card with photograph.
> - Electricity Bill
> - Driving License.

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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

19. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

20. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

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22. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

23. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

24. The Appellant/ Claimant has 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.

25. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1582237 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-G) AND Voter List of the year 2019 (Annexure-H).

26. It is pointed out that the Vote ID Card No. ARE 1582237 (Annexure-A) has been issued on 12.10.2012, much prior to the cut off date of 01.01.2015. Further, the name of the Appellant/Claimant appears at Sl. No. 1144 in the Voter List of the year 2014 (Annexure-G) and at Sl. No. 1297 in the Voter List of the year 2019 (Annexure-H). Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 and his name appear in the Voter List of 2014 & of the year of survey.

27. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. C-510 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. C-510 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

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28. The Appellant/Claimant has tendered his Driving License (Annexure-D), Electricity Bill (Annexure-E), Passbook of Bandhan Bank (Annexure-F) as well as Voter ID Card No. ARE 2289874 (Annexure-I) & Aadhar Card (Annexure-J) of his wife Sonam and Aadhar Cards of his daughter Safia (Annexure-K) & Alia (Annexure-L).

29. It is pointed out that the Driving License (Annexure-D) of the Appellant/Claimant has been issued on 27.10.2020. The Electricity Bill (Annexure-E) shows that the connection has been taken by Anis S/o Jamal on 17.11.2017 on the ground floor of the Jhuggi No. R-37 but this is not relevant because the Appellant/Claimant is not claiming allotment against Jhuggi No. R-37. The Passbook of Bandhan Bank (Annexure-F) shows that the Appellant/Claimant has opened the account on 20.08.2017. The Voter ID Card (Annexure-I) of Sonam has been issued on 23.10.2019. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because this document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

30. The material placed on file shows that the Appellant/Claimant was not living separately & independently on the first floor of the said Jhuggi No. C-510 on the cutoff date of 01.01.2015 but he had shifted to first floor of Jhuggi No. R-37 of his cousin Anis S/o Jamil to live on rent but in collusion with his family members he had filed wrong & false claim to maximize allotments against Jhuggi No. C-510 by hook or crook. Further DDA has already made allotment in favour of his father, Rafik Ahmad, against the ground floor and also in favour of his sister-in-law, Imrana W/o Nasir (his predeceased brother) against the first floor of Jhuggi No. C-510 and accordingly two allotments against that Jhuggi is not permissible as per the guidelines issued by DDA and further the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the first floor of Jhuggi No. C-510. The documents, Annexure-A to Annexure-L, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

31. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living separately & independently on the first floor of the said Jhuggi No. C-510 on the cutoff date of 01.01.2015 but he had shifted to first floor of Jhuggi No. R-37 of his cousin Anis S/o Jamil to live on rent but in collusion with his family members he had filed wrong & false claim to maximize allotments against Jhuggi No. C-510 by hook or crook. Further DDA has already made allotment in favour of his father, Rafik Ahmad, against the ground floor and also in favour of his sister-in-law, Imrana W/o Nasir (his predeceased brother) against the

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first floor of Jhuggi No. C-510 and accordingly two allotments against that Jhuggi is not permissible as per the guidelines issued by DDA and further the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor of Jhuggi No. C-510. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

32. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/26/172.1/907 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 453 of 2023

Date of Institution: 30.11.2022

Date of Order: 26.07.2023

Present: Appellant/Claimant Ranjana Jha W/o Arun Jha D/o Indra Narayan Jha

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-106, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-106 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/020.G/933 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 453 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 07.07.2023. The

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Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is pointed out at the very outset that the material placed on file as well as the survey records furnished by DDA shows that the Jhuggi No. C-106, Bhoomiheen Camp of the Appellant/Claimant was found to exist and all the requisite documents, except Voter ID Card & a separate Ration Card, were found and accordingly her claim was rejected on the sole ground that her voter ID card & separate Ration Card, were not found to have been verified.

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 on the cutoff date of 01.01.2015 whether she is entitled to claim allotment against Jhuggi bearing No. C-106 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Ranjana Jha, has been recorded before us on 07.07.2023 wherein she has stated that she was married with Arun Jha and having three children; Gaurav, Preeti & Kanchan. Her son Gaurav is unmarried whereas her daughter Preeti is married with Rahul and she is living in her matrimonial home in Noida. Her second daughter Kanchan is married with Nishant and she is living in her matrimonial home in Burari, Delhi.

9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. C-106 and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor. The room on the ground floor is used for residential purposes whereas the room on the first floor is used as kitchen. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. C-106 but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she had filed the present Appeal No. 453 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-L in support of her claim and prayed that DDA be directed to make allotment in her favour against the ground floor of Jhuggi No. C-106.

10. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-106. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 07.07.2023 wherein she has stated that three videos pertain to the Jhuggi No. C-106 in which the room on the ground floor used for residential purposes

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and kitchen on the first floor is seen and further, an iron ladder placed outside in the gali for going to the upper floor is also seen. This accordingly shows that the double storey Jhuggi No. C-106 is a single dwelling unit because the Appellant/Claimant uses the room on the ground floor for residential purposes & the room on the first floor as kitchen.

11. It is pointed out that the survey team has prepared the survey report annexed with this file thereby showing that the last survey was conducted on 01.09.2019 of the Jhuggi of the Appellant/Claimant, Ranjana Jha, and her son, Gaurav Jha, & daughters, Kanchan Jha & Preeti Jha, were found to be living with her as per the Family Member Details given therein and further it has made a remark **"Family lives in ground floor, Ration card is her mother in law name, she is expired"** *(the spelling and formation of sentence ignored by us)* and it corroborates that the Appellant/Claimant along with her family, which comprised of her son, Gaurav Jha, & daughters, Kanchan Jha & Preeti Jha, was found to living on the ground floor of the Jhuggi No. C-106, Bhoomiheen Camp.

12. Here it pertinent to mention that in Para No. 1 of the proceedings conducted by EDC it is pointed out that in the survey records of DDA it is mentioned that the upper floor Jhuggi of the Appellant/Claimant was found to exist. But there seems to be some clerical/typographical mistake because in the survey records placed before us along with the photographs prepared by the survey team it is mentioned that "the Appellant/Claimant along with her family, which comprised of her son, Gaurav Jha, & daughters, Kanchan Jha & Preeti Jha, was found to living on the ground floor of the Jhuggi No. C-106, Bhoomiheen Camp and it was also found to be used for "residential purposes". Thus the statement of the Appellant/Claimant as well as the video clips furnished by DDA as well as the survey records placed before us along with the photographs prepared by the survey team shows that the Jhuggi of the Appellant/Claimant regarding which survey was conducted by DDA's Survey Team is a double storey Jhuggi and the Appellant/Claimant, Ranjana Jha, along with her family, which comprised of her children, Gaurav Jha, Kanchan Jha & Preeti Jha, was found to living on the ground floor of the Jhuggi No. C-106, Bhoomiheen Camp and further the material placed on file shows that the Appellant/Claimant, Ranjana Jha, along with her family has been using the ground floor of the said Jhuggi for residential purposes and the kitchen was on the first floor.

13. There is nothing to disbelieve the statement of the Appellant/Claimant that her Jhuggi No. C-106, Bhoomiheen Camp is a double storey structure and it comprises of one room each on the ground floor & first floor and an iron ladder was placed outside in the gali for going to the upper floor. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the Jhuggi No. C-106 of the Appellant/Claimant is a double storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the ground floor of the said Jhuggi No. C-106 is used by the Appellant/ Claimant & her family for residential purposes and the first floor is used by them as kitchen.

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14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-106 in Bhoomiheen Camp is a pucca structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & her family has been using the ground floor of the said Jhuggi No. C-106 for residential purposes and the first floor is used as kitchen and accordingly both the floors of the said Jhuggi No. C-106 constitutes single dwelling unit.

15. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. As per our discussion above, the Jhuggi No. C-106 of the Appellant/Claimant is found to be a double storey structure and the Appellant/ Claimant & her family has been using the ground floor of the said Jhuggi No. C-106 for residential purposes and the first floor is used as kitchen and accordingly both the floors of the said Jhuggi No. C-106 constitutes single dwelling unit on the cut off date of 01.01.2015 and accordingly the parameters for the ground floor are applicable.

16. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the said Jhuggi bearing No. C-106 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-L, 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.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.

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6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

19. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name

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must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the ground floor of the Jhuggi bearing No. C-106 as per the policy guidelines issued by DDA.

21. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

22. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A, Annexure-B & Annexure-C), Aadhar Card (Annexure-D), PAN Card (Annexure-E), Voter List of the year 2012 (Annexure-H), Voter List of the year 2013 (Annexure-I), Voter List of the year 2014 (Annexure-J) Voter List of the year 2015 (Annexure-K) and Voter List of the year 2020 (Annexure-L).

23. It is pointed out that all the documents, Annexure- A to Annexure-D and Annexure-H to Annexure-L, have been issued on the address of Jhuggi No. C-106 regarding which the Appellant/Claimant has claimed allotment from DDA.

24. It is also pertinent to point out that the Appellant/Claimant is having two Voter ID Cards (Annexure-A & Annexure-B) and both are bearing same number, i.e., ARE 1145028. The first Voter ID Card is bearing number ARE 1145028 (Annexure-A), which has been issued on 27.10.2008, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has stated that the old Voter ID Card (Annexure-A) was discontinued and therefore the Election Commission had issued the second colour Voter ID Card bearing number ARE 1145028 (Annexure-B) on 19.09.2022 in its place. This shows that both the Voter ID Cards (Annexure-A & Annexure-B) of the Appellant/Claimant has been bearing same number, i.e., ARE 1145028 and the first Voter ID Card No. ARE 1145028 (Annexure-A) has been issued much prior to the cut off date of 01.01.2015.

25. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 279 in the Voter List of the year 2012 (Annexure-H), at Sl. No. 279 in the Voter List of the year 2013 (Annexure-I), at Sl. No. 217 in the Voter List of the year 2014 (Annexure-J), at Sl. No. 223 in the Voter List of the year 2015 (Annexure-K) and at Sl. No. 221 in the Voter List of the year 2019 (Annexure-L). In all the voter lists (Annexure-H to Annexure-L) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 1145028 (Annexure-A) and the address is mentioned to be Jhuggi No. C-106 regarding which the Appellant/Claimant has claimed allotment from DDA. The material placed on file shows

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that the Appellant/Claimant has been continuously living in Jhuggi No. C-106 regarding which she has been claiming allotment from DDA and further she had used the Voter ID Card No. ARE 1145028 (Annexure-A) to cast her vote in the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year 2019 as reflected in the voter lists (Annexure-H to Annexure-L) and in all the voter lists (Annexure-H to Annexure-L) the address is mentioned to be Jhuggi No. C-106 regarding which the Appellant/Claimant has been claiming allotment from DDA.

26. Thus we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card number ARE 1145028 on the cut off date of 01.01.2015 and this voter ID Card has been issued on the address of Jhuggi No. C-106 regarding which the present Appellant/ claimant has claimed allotment from DDA and further her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. This shows that the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and her name also appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and she accordingly fulfills the eligibility criteria as per the guidelines issued by DDA.

27. The Appellant/Claimant has tendered the Passbook of PNB (Annexure-E), Gas Connection (Annexure–F) and Ration Card (Annexure-G).

28. It is pointed out that the Passbook of PNB (Annexure-E) shows that the account has been opened by the Appellant/Claimant on 26.08.2006, much prior to the cut off date of 01.01.2015. The Gas Connection (Annexure–F) also shows that the connection was taken by he Appellant/Claimant on 31.01.2000, much prior to the cut off date of 01.01.2015. The Ration Card (Annexure-G) has been issued in favour of her mother Baby Jha and the name of the Appellant/Claimant and also that of her husband, Arun Jha and her children, Gaurav Jha, Kanchan Jha & Preeti Jha have been recorded therein. Further, it is pointed out that the abovementioned documents have been issued on the address of Jhuggi No. C-106 regarding which the Appellant/Claimant has been claiming allotment from DDA thereby showing that the Appellant/Claimant & her family members have been living there since long and especially much prior to the cutoff date of 01.01.2015 in the Jhuggi No. C-106 regarding which the present Appellant/Claimant has claimed allotment from DDA. This further shows that the Appellant/Claimant is having requisite documents and accordingly she fulfills the eligibility criteria as per the guidelines issued by DDA.

29. Hence, we have no hesitation in holding that the double storey Jhuggi No. C-106, Bhoomiheen Camp was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & her family has been using the ground floor of the said Jhuggi No. C-106 for residential purposes and the first floor is used as kitchen and accordingly both the floors of the said Jhuggi No. C-106 constitute a single dwelling unit

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and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card, on the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

30. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present Appeal No. 453 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/36/020.G/933 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/Claimant Ranjana Jha W/o Arun Jha D/o Indra Narayan Jha, in respect of the Jhuggi No. C-106, Bhoomiheen Camp.

31. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

26/7/2023

(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

26/7/2023

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

26/7/2023

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 544 of 2023

Date of Institution: 05.12.2022

Date of Order: 26.07.2023

Present: Appellant/ Claimant Purushuttam Lal Bhatia (since deceased) S/o Jada Ram through his legal heir, Anil (son)

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living on the ground floor of Jhuggi bearing No. B-364, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the ground floor of the Jhuggi bearing No. B-364 was found to be used solely for commercial purposes accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen

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Camp, duly communicated its order bearing No. 385/61/99.G/1313 dated 07.11.2022 to the legal heir of the present Appellant/ Claimant, who has since died on 09.11.2020. Aggrieved by the same, the present Appeal No. 544 of 2023 has been filed by his legal heir, Anil (son).

3. In response to the notice, Anil (son), legal heir of the present Appellant/ Claimant, Purushuttam Lal Bhatia (since deceased) S/o Jada Ram has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of Anil (son) has been recorded before us on 11.04.2023 and he has tendered documents, Annexure- A to Annexure- I, in support of the claim of the present Appellant/ Claimant, Purushuttam Lal Bhatia (since deceased). DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by Anil (son), legal heir of the present Appellant/ Claimant, Purushuttam Lal Bhatia (since deceased) as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-364 was found to be used solely for commercial purposes and accordingly he was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to the legal heir of the present Appellant/ Claimant, who has since died on 09.11.2020, by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Commercial"** and aggrieved by the same the present Appeal No. 544 of 2023 has been filed by his legal heir, Anil (son).

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. B-364 was found to be exclusively used for commercial purposes and accordingly the

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present Appellant/Claimant Purushuttam Lal Bhatia (since deceased) is not entitled for alternate allotment as per the policy guidelines.

7. The statement of Anil son of the present Appellant/Claimant Purushuttam Lal Bhatia (since deceased) has been recorded before us on 11.04.2023 wherein he has stated that the claim has been wrongly rejected by DDA. Anil has tendered documents, Annexure-A to Annexure-I, in support of the claim of the Appellant/Claimant Purushuttam Lal Bhatia (since deceased) and prayed that DDA be directed to make allotment in favour of Purushuttam Lal Bhatia (since deceased). It is argued on behalf of the Appellant/ Claimant that he fulfills the criteria and possesses all the requisite documents. The Jhuggi bearing No. B-364 has been wrongly found to have been used solely for commercial purposes because it is put to mixed use for residential & commercial purposes on the cutoff date of 01.01.2015 as the ground floor was used as shop and the first floor was used for residential purposes and he has furnished requisite documents in proof of residence.

8. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and her name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. But the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he had made wrong claim in collusion with his family members to claim alternate allotment from DDA in spite of the fact that on the cutoff date of 01.01.2015 the Appellant/ Claimant was running the "Cycle Repair Shop" and further the Appellant/ Claimant was not living on the first floor of the Jhuggi No. B-364 regarding which he has claimed allotment from DDA. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/61/99.G/1313 dated 07.11.2022.

9. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

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"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.

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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

10. The statement of Anil in the capacity of legal heir of the present Appellant/Claimant Purushottam Lal Bhatia (since deceased) has been recorded before us on 11.04.2023 wherein he has stated that his parents, Purushottam Lal Bhatia & Shanti, are having three sons; Anil, Sanjeev & Rajiv and two daughters Poonam & Meenakshi. Shanti had expired in the year 2015. Purushottam Lal Bhatia had expired on 09.11.2020. His Death Certificate is Annexure-C. All the children are married. Poonam & Meenakshi are living in their respective matrimonial homes in Kalkaji, Delhi & Lajpat Nagar, Delhi. Sanjeev is married with Ritu and having one son Nividh and he is living on rent in Lajpat Nagar, Delhi. Rajiv is married with Pinki and having one son Manan and he is also living on rent in Lajpat Nagar, Delhi. Anil is married with Manisha and having two children, Karan & Khushi and he along with his family is living on rent in Kalkaji.

11. Anil has stated that his parents, Purushottam Lal Bhatia (un till his death on 09.11.2020) & Shanti (un till her death in the year 2015) were living separately in Jhuggi No. B-364, Bhoomiheen Camp, which is a double storey structure and it comprises of one room on each floor whereas all their children were living outside of Bhoomiheen Camp, Kalkaji. After the death of Shanti, Purushottam Lal Bhatia used to live all alone in Jhuggi No. B-364. Anil has stated that ground floor was used by his father Purushottam Lal Bhatia as "Cycle Repair Shop" whereas his parents were living on the first floor of Jhuggi No. B-364.

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12. Anil has stated that his father Purushottam Lal Bhatia (Appellant/Claimant) had sought allotment from DDA against the said double storey Jhuggi No. B-364 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, Anil in the capacity of legal heir of his father Purushottam Lal Bhatia (since deceased) had filed the present Appeal No. 544 of 2023 before the Appellate Authority for redressal. Anil has tendered documents, Annexure-A to Annexure-I, in support of the claim of Purushottam Lal Bhatia (Appellant/Claimant) and prayed that DDA be directed to make allotment in favour of his father Purushottam Lal Bhatia (since deceased).

13. DDA has furnished the survey records along with one video clip of Jhuggi No. B-364. The video clip was played before Anil when his statement was recorded before us on 11.04.2023 wherein he has stated that the video clip pertains to the ground floor in which he (Anil) is seen and getting the survey conducted on behalf of his father Purushottam Lal Bhatia (since deceased) and vacant room on the ground floor, which was allegedly used as "Cycle Repair Shop" is seen and further only one "takhat" used for taking rest is seen to be lying on the first floor and no utensils and other household articles are seen to be lying there. This shows that the first floor was not used for living purposes but at the most it was used for taking rest during working hours whereas the ground floor was admittedly used as "Cycle Repair Shop".

14. Anil has tendered pen drive (Annexure-I) containing the video clips of Jhuggi No B-364 and the same is saved in the computer along with other records furnished by DDA and it was played before Anil when his statement was recorded before us on 11.04.2023 wherein he has stated that shop on the ground floor and one room on the first floor of Jhuggi No. B-364 is seen and further, an iron ladder placed outside in the gali for going to the upper floor is also seen.

15. The condition contained in Part–B Paras No. 8 & 9 of DDA policy detailed in Para no. 9 above runs as under:

> *"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."*
> *"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for*

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residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."

16. It is pertinent to point out that as per survey record placed on file the survey was conducted on 14.09.2019 and single storey Jhuggi No. B-364 was found to exist. The Appellant/Claimant Purushottam Lal Bhatia had expired on 09.11.2020 and his Death Certificate is Annexure-C. Inspite of the fact that the Appellant/Claimant Purushottam Lal Bhatia was very much alive on the date of survey, i.e., 14.09.2019 but he had not got the survey conducted but instead his son Anil, who was admittedly living on rent in Kalkaji had got the survey conducted on behalf of his father and this shows that the Appellant/Claimant Purushottam Lal Bhatia was not living in Jhuggi No. B-364 but he was using it for commercial purposes. Had it been living on the first floor of Jhuggi No. B-364 then he himself would have got the survey conducted. As already pointed out in the video prepared by the survey the first floor is not seen to be having any sign to have been used for residential purposes because only one "takhat" used for taking rest is seen to be lying on the first floor and no utensils and other household articles are seen to be lying there. This shows that the first floor was not used for living purposes but at the most it was used for taking rest during working hours whereas the ground floor was admittedly used as "Cycle Repair Shop".

17. As per our discussion above, the statement of the Appellant/Claimant as well as the video clip has duly proved that on the cutoff date of 01.01.2015 the Jhuggi No. B-364 was used by the Appellant/Claimant Purushottam Lal Bhatia (since deceased) for running "Cycle Repair Shop" from the ground floor and the first floor was not used for residential purposes by the Appellant/Claimant but the room was used for taking some rest during working hours as no utensils and other household articles are seen to be lying there and thus the Jhuggi No. B-364 has not been put to mixed use as commercial/residential or exclusively for residential purposes but it was solely used by the Appellant/Claimant Purushottam Lal Bhatia (since deceased), for commercial purposes for running an "Cycle Repair Shop". Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

18. The bare perusal of the Policy detailed in Para no. 9 above shows that for claiming allotment the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list

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of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

19. Now we shall first appraise the material placed on file to determine the eligibility of the present Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey.

20. Anil has tendered the Voter ID Card No. ARE 2287688 (Annexure-A) & Aadhar Card (Annexure-B) of his father Purushottam Lal Bhatia (Appellant/Claimant).

21. It is pointed out that the Voter ID Card No. ARE 2287688 (Annexure-A) has been issued on 21.09.2019, much after the cut off date of 01.01.2015. No Voter List has been placed on file to show that the Appellant/Claimant Purushottam (since deceased) was having a valid Voter ID Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. B-364 regarding which he is claiming allotment from DDA and further, no material is placed on file to show that Purushottam Lal Bhatia (since deceased) had ever used his Voter ID Card to cast his Vote in the v year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant Purushottam (since deceased) was not having a Voter ID Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. B-364 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

22. Anil had submitted the Passbook of SBI (Annexure-D), Electricity Bill (Annexure-E) as well as Voter ID Card No. ARE 2550226 (Annexure-F), Aadhar Card (Annexure-G) of Anil and Ration Card (Annexure-H).

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23. It is pointed out that the Passbook of SBI (Annexure-D) shows that Anil had opened the account on 15.11.2022, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken the Electricity Connection on 10.06.2008. The Voter ID Card (Annexure-F) of Anil has been issued on 07.08.2021, much after the cut off date of 01.01.2015. Further, the Ration Card (Annexure-H) has been issued in favour of Manisha W/o Anil on 02.07.2019, much after the cut off date of 01.01.2015. It is also pointed out that the abovementioned documents are of no help to the Appellant/Claimant Purushottam Lal Bhatia (since deceased) because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a Voter ID Card on the cut off date of 01.01.2015 issued on the address of Jhuggi No. B-364 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Jhuggi No. B-364 is not put to mixed use for both residential and commercial purposes by the Appellant/Claimant but it is solely used for commercial purposes for running a "Cycle Repair Shop". Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

24. The material placed on file as well as the statement of Anil shows that on the cutoff date of 01.01.2015 the Appellant/ Claimant Purushottam Lal Bhatia (since deceased) was not having a Voter ID Card issued on the address of Jhuggi No. B-364 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 the Jhuggi No. B-364 is not put to mixed use for both residential and commercial purposes by the Appellant/Claimant but it was solely used by him for commercial purposes for running a "Cycle Repair Shop". Therefore, the Appellant/ Claimant Purushottam Lal Bhatia (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

25. Accordingly, as per our discussion above we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant Purushottam Lal Bhatia (since deceased) was not having a Voter ID Card issued on the address of Jhuggi No. B-364

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regarding which the Appellant/Claimant is claiming allotment from DDA and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Jhuggi No. B-364 is not put to mixed use for both residential and commercial purposes by the Appellant/Claimant Purushottam Lal Bhatia (since deceased) but it is solely used by by him for commercial purposes for running a "Cycle Repair Shop". Therefore, the Appellant/ Claimant Purushottam Lal Bhatia (since deceased) does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly he is not entitled for alternate allotment.

26. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/61/99.G/1313 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

27. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranbir Singh) 26/7/2023	**(Satish Ahlawat)** 26/7/2023	**(Rachna Tiwary)** 26/7/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 584 of 2023

Date of Institution: 07.12.2022

Date of Order: 26.07.2023

Present: None for the Appellant/ Claimant Babita Varshney D/o Satish Chand

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-267/1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-267/1 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/27/217.G/918 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 584 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-267/1 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure her presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 07.02.2023 for 13.03.2023 to procure the appearance of the present Appellant/ Claimant.

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But she had failed to appear on 13.03.2023. Fresh notice was issued on 13.03.2023 to procure her presence on 13.04.2023 and from 13.04.2023 to 09.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 01.08.2023 to give priority and fresh notice was issued to procure her presence for 01.08.2023. The file was taken up on 27.06.2023 to give priority and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on her mobile number.

8. On 24.07.2023 fresh notice was issued for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 26.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue her Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 584 of 2023 instituted on 07.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

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11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/27/217.G/918 dated dated 07.12.2022. Hence the same is upheld. Consequently, the present Appeal No. 584 of 2023 instituted on 07.12.2022 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 585 of 2023

Date of Institution: 07.12.2022

Date of Order: 26.07.2023

Present: None for the Appellant/ Claimant Shakuntla Devi S/o Satish Chand

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-447, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-447 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/27/219.G/919 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 585 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-447 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified//No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/ reminders were issued to the Appellant/ Claimant to procure her presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on

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07.02.2023 for 13.03.2023 to procure the appearance of the present Appellant/ Claimant. But she had failed to appear on 13.03.2023. Fresh notice was issued on 13.03.2023 to procure her presence on 13.04.2023 and from 13.04.2023 to 09.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 01.08.2023 to give priority and fresh notice was issued to procure her presence for 01.08.2023. The file was taken up on 27.06.2023 to give priority and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. On 24.07.2023 fresh notice was issued for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 26.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue her Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 585 of 2023 instituted on 07.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

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11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/27/219.G/919 dated 07.12.2022. Hence the same is upheld. Consequently, the present Appeal No. 585 of 2023 instituted on 07.12.2022 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranbir Singh) 24/7/2023	**(Satish Ahlawat)** 26/7/2023	**(Rachna Tiwary)** 26/7/2023
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 680 of 2023

Date of Institution: 23.01.2023

Date of Order: 26.07.2023

Present: None for the Appellant/ Claimant Anjalui Das W/o Nirmal Das

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-407, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-407 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/49.G/1688 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the

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same, the present Appeal No. 680 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-407 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Double Allotment Case"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure her presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 16.02.2023 for 13.03.2023 to procure the appearance of the present Appellant/ Claimant.

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But she had failed to appear on 13.03.2023. Fresh notice was issued on 13.03.2023 to procure her presence on 13.04.2023 and from 13.04.2023 to 13.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 03.08.2023 to give priority and fresh notice was issued to procure her presence for 03.08.2023. The file was taken up on 27.06.2023 to give priority and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on her mobile number.

8. On 24.07.2023 fresh notice was issued for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 26.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue her Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 680 of 2023 instituted on 07.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

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11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/9/49.G/1688 dated dated 07.12.2022. Hence the same is upheld. Consequently, the present Appeal No. 680 of 2023 instituted on 07.12.2022 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

26/7/2023 26/7/2023 26/7/2023

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 595 of 2023

Date of Institution: 07.12.2022

Date of Order: 26.07.2023

Present: None for the Appellant/ Claimant Gurang Bala S/o Hara Dhan Bala

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-319, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-319 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/109.1/1582 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 595 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has not appeared in person in spite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-319 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Notice for Appearance was issued on 08.02.2023 for 13.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 13.03.2023. Fresh notice was issued on 13.03.2023 to

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procure his presence on 13.04.2023 and from 13.04.2023 to 26.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 02.08.2023 to give priority and fresh notice was issued to procure his presence for 02.08.2023. The file was taken up on 27.06.2023 to give priority and accordingly it was fixed for 11.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 11.07.2023 in spite of due service. On 11.07.2023 fresh notice was issued for 21.07.2023 to procure the presence.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. On 24.07.2023 fresh notice was issued for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 26.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 595 of 2023 instituted on 07.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

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11. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

12. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

13. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/109.1/1582 dated 07.12.2022. Hence the same is upheld. Consequently, the present Appeal No. 595 of 2023 instituted on 07.12.2022 is dismissed being devoid of any merit.

14. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 32 of 2022

Date of Institution: 18.11.2022

Date of Order: 27.07.2023

Present: None for the Appellant/ Claimant Manoj S/o Ishwar Singh

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-315, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-315 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/6/64.1/1218 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 32 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-315 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 06.12.2022 and after conducting oral enquiry the matter was fixed for 23.01.2023 for tendering of documents by the parties in favour of their respective claim/stand. On 23.01.2023 adjournment was granted on the request of the Appellant/ Claimant and the matter was fixed for 27.02.2023. But the Appellant/ Claimant had failed to appear on 27.02.2023 and accordingly the Notice for Appearance was issued on 27.02.2023 for 29.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 29.03.2023. Fresh notice was issued on 29.03.2023 to procure his presence for 24.05.2023. But the file was taken up on 08.05.2023 and the appeal was fixed for 14.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 14.07.2023. The file was taken up on 27.06.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special

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messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 27.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 32 of 2022 instituted on 18.11.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on

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file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

14. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/6/64.1/1218 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 32 of 2022 instituted on 18.11.2022 is dismissed being devoid of any merit.

15. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 279 of 2023

Date of Institution: 25.11.2022

Date of Order: 27.07.2023

Present: None for the Appellant/ Claimant Vivek Gayan S/o Amit Gayan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-235, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-235 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/58/64.11F/1144 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 279 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-133 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 09.01.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 27.02.2023. But he had again failed to appear on 27.02.2023 and accordingly the Notice for Appearance was issued on 27.02.2023 for 29.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 29.03.2023. Fresh notice was issued on 29.03.2023 to procure his presence for 12.04.2023. But he failed to appear on 12.04.2023 and accordingly fresh notice was issued for 23.05.2023 to procure his presence. But the file was taken up on 08.05.2023 and the appeal was fixed for 13.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 13.07.2023. The file was taken up again on 27.06.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special

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messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 27.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 279 of 2023 instituted on 25.11.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on

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file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

14. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/58/64.11F/1144 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 279 of 2023 instituted on 25.11.2022 is dismissed being devoid of any merit.

15. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 515 of 2023

Date of Institution: 02.12.2022

Date of Order: 27.07.2023

Present: None for the Appellant/ Claimant Gopal Patra S/o Amul Patra

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-133, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-133 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/34.1/948 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 515 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-133 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 01.02.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 27.02.2023. But he had again failed to appear on 27.02.2023 and accordingly the Notice for Appearance was issued on 27.02.2023 for 29.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 29.03.2023. Fresh notice was issued on 29.03.2023 to procure his presence for 12.04.2023. But he failed to appear on 12.04.2023 and accordingly fresh notice was issued for 24.05.2023 to procure his presence. The Appellant/ Claimant did not appear on 24.05.2023 and accordingly fresh notice was issued for 25.05.2023. However, the Appellant/ Claimant did not appear on 25.05.2023 and accordingly fresh notice was issued for 28.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 21.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 21.08.2023. The file was taken up again on 27.06.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

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9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 27.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 677 of 2023 instituted on 20.01.2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

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13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

14. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/34.1/948 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 515 of 2023 instituted on 02.12.2022 is dismissed being devoid of any merit.

15. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 564 of 2023

Date of Institution: 06.12.2022

Date of Order: 27.07.2023

Present: None for the Appellant/ Claimant Amullo Parmanik S/o Gopal Parmanik

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-80, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-80 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/41/3.1/1048 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 564 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-80 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 06.02.2023 and after conducting oral enquiry the matter was fixed for 27.02.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 27.02.2023 and accordingly the Notice for Appearance was issued on 27.02.2023 for 29.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 29.03.2023. Fresh notice was issued on 29.03.2023 to procure his presence for 12.04.2023. But he failed to appear on 12.04.2023 and accordingly fresh notice was issued for 05.06.2023 to procure his presence. But the file was taken up on 30.05.2023 and the appeal was fixed for 21.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 21.07.2023. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter

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of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 27.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 279 of 2023 instituted on 25.11.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

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14. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/41/3.1/1048 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 564 of 2023 instituted on 06.12.2022 is dismissed being devoid of any merit.

15. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

27/7/2023	S/ Ahlawat 27/7/2023	Rivastava 27/7/2023
(Ranbir Singh)	**(Satish Ahlawat)**	**(Rachna Tiwary)**
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 618 of 2023

Date of Institution: 14.12.2022

Date of Order: 27.07.2023

Present: None for the Appellant/ Claimant Pooja Kumari D/o Raju Banerjee

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-474, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-474 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/63/086.G/1397 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 618 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-474 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure her presence but without any response as she has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 10.02.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 27.02.2023. But she had again failed to appear on 27.02.2023 and accordingly the Notice for Appearance was issued on 27.02.2023 for 29.03.2023 to procure the appearance of the present Appellant/ Claimant. But she had failed to appear on 29.03.2023. Fresh notice was issued on 29.03.2023 to procure her presence for 12.04.2023. But she failed to appear on 12.04.2023 and accordingly fresh notice was issued for 19.06.2023 to procure her presence. But the file was taken up on 30.05.2023 and the appeal was fixed for 09.08.2023 to give priority to other cases and fresh notice was issued to procure her presence for 09.08.2023. The file was taken up again on 27.06.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on her mobile number.

8. On 24.07.2023 fresh notice was issued for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in

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Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on her mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on her mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 27.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 618 of 2023 instituted on 14.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on

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file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

14. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/63/086.G/1397 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 618 of 2023 instituted on 14.12.2022 is dismissed being devoid of any merit.

15. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 677 of 2023

Date of Institution: 20.01.2023

Date of Order: 27.07.2023

Present: None for the Appellant/ Claimant Tapas Haldar S/o Narayan Haldar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-254, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-254 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/72.1/966 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 677 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-254 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 16.02.2023 and after conducting oral enquiry the matter was fixed for 27.02.2023 for tendering of documents by the parties in favour of their respective claim/stand. But he had failed to appear on 27.02.2023 and accordingly the Notice for Appearance was issued on 27.02.2023 for 29.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 29.03.2023. Fresh notice was issued on 29.03.2023 to procure his presence for 24.05.2023. But he failed to appear on 24.05.2023 and accordingly fresh notice was issued for 27.06.2023 to procure his presence. But the file was taken up on 30.05.2023 and the appeal was fixed for 18.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 18.08.2023. The file was taken up again on 27.06.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special

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messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 27.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 677 of 2023 instituted on 20.01.2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

12. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

13. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on

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file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

14. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/72.1/966 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 677 of 2023 instituted on 20.01.2023 is dismissed being devoid of any merit.

15. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 114 of 2022

Date of Institution: 22.11.2022

Date of Order: 28.07.2023

Present: None for the Appellant/ Claimant Madhav Pramanik S/o Niranjan Pramanik

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-80, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-80 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/41/3.2/1049 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 114 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-80 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us except on two dates, 23.12.2022 & 07.02.2023. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 23.12.2022 and after conducting oral enquiry the matter was fixed for 07.02.2023 for tendering of documents by the parties in favour of their respective claim/stand. On 07.02.2023 on the request of the present the matter was fixed for 27.03.2023 for furnishing of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 26.04.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 05.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 21.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 21.07.2023. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in

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Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 28.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 640 of 2023 instituted on 28.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether 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 further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on

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the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

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 No. 385/41/3.2/1049 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 114 of 2023 instituted on 22.11.2022 is dismissed being devoid of any merit.

16. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 481 of 2023

Date of Institution: 30.11.2022

Date of Order: 28.07.2023

Present: None for the Appellant/ Claimant Prem Kumar S/o Asha Nand

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-267, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-267 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/18/30.1/763 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 481 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-267 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 27.01.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 07.02.2023. But he had again failed to appear on 07.02.2023 and accordingly the Notice for Appearance was issued on 07.02.2023 for 27.03.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 27.03.2023. Fresh notice was issued on 27.03.2023 to procure his presence for 26.04.2023. But he failed to appear on 26.04.2023 and accordingly fresh notice was issued for 08.05.2023 to procure his presence. The Appellant/ Claimant did not appear on 08.05.2023 and accordingly fresh notice was issued for 26.05.2023. However, the Appellant/ Claimant did not appear on 26.05.2023 and accordingly fresh notice was issued for 26.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 17.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 17.08.2023. The file was taken up again on 27.06.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

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9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 28.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 481 of 2023 instituted on 30.11.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

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 further also that the name of JJ dwellers must appear in at least on the voter list of the year's

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2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

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 No. 385/18/30.1/763 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 481 of 2023 instituted on 30.11.2022 is dismissed being devoid of any merit.

16. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 532 of 2023

Date of Institution: 05.12.2022

Date of Order: 28.07.2023

Present: None for the Appellant/ Claimant Sunita W/o Ravi

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-545, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-545 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 38518/62.1/784 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 532 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-545 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as she has appeared before us only on one date, i.e., 02.02.2023. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 02.02.2023 and after conducting oral enquiry the matter was fixed for 27.03.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued on 27.03.2023 for 26.04.2023 to procure the appearance of the present Appellant/ Claimant. But she had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure her presence for 29.05.2023. But the file was taken up on 08.05.2023 and the appeal was fixed for 25.05.2023 to give priority to this case and fresh notice was issued to procure his presence for 25.05.2023. But she had failed to appear on 25.05.2023 and fresh notice was issued to procure her presence for 28.06.2023. The file was taken up on 30.05.2023 to give priority to other cases and accordingly it was fixed for 21.08.2023 for conducting further proceedings. The file was taken up on 27.06.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

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9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 28.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 532 of 2023 instituted on 05.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

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 further also that the name of JJ dwellers must appear in at least on the voter list of the year's

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2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

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 No. 38518/62.1/784 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 532 of 2023 instituted on 05.12.2022 is dismissed being devoid of any merit.

16. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 640 of 2023

Date of Institution: 28.12.2022

Date of Order: 28.07.2023

Present: None for the Appellant/ Claimant Lxmikant Chakrabarty S/o Jatan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-226, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-226 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/9/64.1/1689 dated 07.11.2022 to the present

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Appellant/Claimant. Aggrieved by the same, the present Appeal No. 640 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-226 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us except on one date, i.e, 13.02.2023. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 13.02.2023 and after conducting oral enquiry the matter was fixed for 27.03.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 26.04.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 20.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 10.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 10.08.2023. The file was taken up on 05.07.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in

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Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 28.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 640 of 2023 instituted on 28.12.2022 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether 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 further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on

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the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

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 No. 385/9/64.1/1689 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 640 of 2023 instituted on 28.12.2022 is dismissed being devoid of any merit.

16. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 670 of 2022

Date of Institution: 02.02.2023

Date of Order: 28.07.2023

Present: None for the Appellant/ Claimant Gautam Barman S/o Vijay Barman

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-423, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-423 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/5.2/992 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 670 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-423 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us except on one date, 15.02.2023. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 15.02.2023 and after conducting oral enquiry the matter was fixed for 27.03.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued on 27.03.2023 for 05.04.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 05.04.2023. Fresh notice was issued on 05.04.2023 to procure his presence for 04.05.2023. But he had failed to appear on 04.05.2023. Fresh notice was issued on 04.05.2023 to procure his presence for 26.05.2023. But the file was taken up on 08.05.2023 and the appeal was fixed for 21.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 21.07.2023. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in

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Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 28.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 670 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

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 further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on

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the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

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 No. 385/37/5.2/992 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 670 of 2023 instituted on 02.02.2023 is dismissed being devoid of any merit.

16. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 711 of 2023

Date of Institution: 07.02.2023

Date of Order: 28.07.2023

Present: None for the Appellant/ Claimant Biswajeet Majhi S/o Sunil Majhi

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-384, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-384 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/67.1/1563 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 711 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-384 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

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6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 20.02.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 27.03.2023. But he had again failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued on 27.03.2023 for 26.04.2023. But he failed to appear on 26.04.2023 and accordingly fresh notice was issued for 16.06.2023 to procure his presence. But the file was taken up on 30.05.2023 and the appeal was fixed for 08.08.2023 to give priority to other cases and fresh notice was issued to procure his presence for 08.08.2023. The file was taken up again on 27.06.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter

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of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 28.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 711 of 2023 instituted on 07.02.2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

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 further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on

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the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

14. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

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 No. 385/68/67.1/1563 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 711 of 2023 instituted on 07.02.2023 is dismissed being devoid of any merit.

16. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 89 of 2023

Date of Institution: 21.11.2022

Date of Order: 31.07.2023

Present: Appellant/ Claimant Shamshad Hussain S/o Shaukat Ali

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-310, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-310 was found to exist on the upper floor but he had failed to submit

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requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/68/32.1/1556 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 89 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 06.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-M, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-310 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is

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entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

7. The statement of the Appellant/Claimant, Shamshad Hussain, has been recorded before us on 06.07.2023,wherein he has stated that his parents, Shoukat & Nasiba, are having two sons, Shamshad & Liyaqat and one daughter Tamanna. Liyaqat and Tamanna are unmarried. Shamshad is married with Sabina and having three children Amin, Aayat & Taimur.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-310, and it comprises of one room on each floor and an iron ladder is placed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Shoukat & Nasiba, along with their unmarried children, Liyaqat & Tamnna, are living on the ground floor of Jhuggi No. C-310 and regarding that DDA has made allotment in favour of his mother Nasiba. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Sabina and three children Amin, Aayat & Taimur, is living on the first floor of the Jhuggi No. C-310. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-310 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 89 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-M, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with three video clips pertaining to Jhuggi No. C-310. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 06.07.2023 in which the Appellant/Claimant has stated that the two video clips pertain to the ground floor in which his mother Nasiba is seen and further, her room & kitchen are also seen. The third video clip pertains to the first floor of Jhuggi No. C-310 in which an iron ladder placed outside in the gali and it is being used for going to the upper floor is seen and further, the Appellant/Claimant Shamshad is seen and his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as

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well as the survey records/video clips has duly proved that double storey Jhuggi No C-310 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Shoukat & Nasiba, along with their unmarried children, Liyaqat & Tamnna, whereas the first floor of the said Jhuggi No C-310 has been used for residential purposes by the Appellant/Claimant.

12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No C-310, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/68/32.1/1556 dated 07.11.2022.

15. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

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"Part-B

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.

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- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

16. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

17. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

18. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against

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upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

19. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

20. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

21. The Appellant/Claimant has tendered his Voter ID Card No. ARE 1182914 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2012 (Annexure-L) and Voter List of the year 2019 (Annexure-M).

22. It is pointed out that the Voter ID Card No. ARE 1182914 (Annexure-A) has been issued on 27.10.2008, much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 258 in the Voter List of the year 2012 (Annexure-L)

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and at Sl. No. 276 in the Voter List of the year 2019 (Annexure-M). Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 and his name appear in the Voter List of 2012 & of the year of survey.

23. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. C-310 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of third floor of the Jhuggi No. C-310 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

24. The Appellant/Claimant has tendered the Voter ID Card No. ARE 2594877 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Sabina as well as Aadhar Cards (Annexure-G to Annexure-I) of his children Amin, Ayat & Taimur, the Birth Certificate (Annexure-J) of the Appellant/Claimant and the Passbook of PNB (Annexure-K).

25. It is pointed out that Voter ID Card No. ARE 2594877 (Annexure-D) of his wife Sabina has been issued on 20.04.2022, much after the cutoff date 01.01.2015. The Birth Certificate (Annexure-J) of the Appellant/Claimant has been issued on 01.08.2011 in which his date of birth is recorded to be 23.08.1986. The Passbook of PNB (Annexure-K) shows that the Appellant/Claimant had opened the account on 31.05.2022, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

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26. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-M, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2012 and also in the year of survey.

27. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/68/32.1/1556 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

28. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 176 of 2022

Date of Institution: 23.11.2022

Date of Order: 31.07.2023

Present: Appellant/Claimant Chandana Golder W/o Dulal Goldar D/o Nisikant Chand

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-223/1, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, it was found that Dulal Goldar, husband of the present Appellant/Claimant, Chandana Goldar, has another wife namely Usha Rani wife of Dulal Golder resident of Jhuggi No. C-226, Bhoomiheen Camp and her name has also appeared in the survey list of JJ cluster of Bhoomiheen Camp at Survey No. 385/18/015.G. During further inquiry they had

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admitted that Dulal Goldar had married Usha Rani and then married the present Appellant/Claimant, Chandana Goldar, without giving divorce to the first wife. It was found that as per Hindu Marriage Act and also as per the policy guidelines of DDA the present Appellant/Claimant, Chandana Goldar, is not eligible to get alternative allotment as she is the second wife of Dulal Goldar and he has been already considered for alternative allotment against Survey No. 385/18/015G in the name of his first wife Usha Rani and further the Appellant/Claimant had made misrepresentation and also futile attempt to suppress material effects to get the allotment merely on documents and further two allotments in favour of both the wives of Dalal Goldar are not permissible as per policy guidelines issued by DDA. The Appellant/Claimant had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/061.G/960 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 176 of 2022 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 26.04.2023 and she has also examined her husband Dalal Goldar in support of her claim. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-223/1 was found to exist but it was found that allotment has already been made in favour of Usha Rani, who is the first wife of Dalal Goldar and accordingly second allotment cannot be made in favour of the present Appellant/Claimant, Chandana Goldar, who is the second wife of Dalal Goldar because two allotments in

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favour of both the wives (Usha Rani & Chandana Goldar) of Dalal Goldar are not permissible as per the policy guidelines issued by DDA because Dalal Goldar had married with the present Appellant/Claimant, Chandana Goldar without taking divorce from the first wife, Usha Rani. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Husband-wife case"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether this is the case of double allotment as both the wives (Usha Rani & Chandana Goldar) of Dalal Goldar have tried to cheat & defraud DDA to get two allotments and whether the Appellant/Claimant is entitled to claim allotment against Jhuggi No. C-223/1 as per the policy guidelines issued by DDA inspite of the fact that DDA has already made allotment in favour of the first wife Usha Rani of Dalal Goldar against Jhuggi No. C-226.

8. The Appellant/ Claimant and her husband Dalal Goldar have made statement before us on 26.04.2023 and they have stated that the claim of the Appellant/ Claimant has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in her favour. It is argued on behalf of the Appellant/ Claimant that she fulfills the criteria and possesses all the requisite documents and merely making allotment in favour of his wife is of no consequence.

9. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that the Appellant/ Claimant must have all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and his name must also appear in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further both the wives (Usha Rani & Chandana Goldar) of Dalal Goldar are seeking allotments from DDA

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even though on separate Jhuggis but the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA but the Appellant/ Claimant has come forward with a wrong & false story just to claim double allotments from DDA inspite of the fact that DDA has already made allotment in favour of Usha Rani, who is the first wife of Dalal Goldar. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/061.G/960 dated 07.11.2022.

10. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper

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floor, the same will also be considered for allotment of a separate dwelling units.

11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

11. Further, the condition contained in Part–B Para No. 7 of DDA policy runs as under:

"Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family."

12. Further the condition (c) contained in Terms and Conditions of Allotment of alternative Dwelling Unit of DDA policy runs as under:

"Allotment will be made in the Joint-name of the husband and wife occupying the jhuggi."

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13. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further allotment can be made in favour of either of spouse. Therefore, when alternate allotment has been made in favour of wife then her husband cannot seek second allotment during the subsistence of their marriage. But in case husband and wife are living separately in two jhuggis and they have been officially divorced then they can claim separate alternate allotments against two Jhuggis where they are living separately. Similarly, the second wife cannot claim allotment when allotment has already been made in favour of the first wife especially when the husband had remarried without taking divorce from the first wife.

14. Now in the light of the legal position discussed above in detail we shall discuss the oral and documentary evidence brought on record by the parties.

15. The statement of the Appellant/Claimant Chandana Golder as well as her husband Dulal Golder have been recorded before us on 26.04.2023 and the gist of their statements are given herein below.

16. The Appellant/Claimant Chandana and Dulal have stated that Dulal had entered into first marriage with Usha Rani in the year 1981 and six daughters, namely, Sushma, Bulbul, Gauri, Sandhya, Kunti & Gita, were born out of the wedlock. All the daughters are married and living in their respective matrimonial homes. Bulbul is living in Faridabad, Haryana, Sandhya is living in Kolkata, West Bengal. Gita is living in Uttam Nagar, Delhi whereas Gauri, Kunti & Sushma are living in Bhoomiheen Camp, Kalkaji.

17. Chandana and Dulal have stated that Dulal was not having son from the first marriage and accordingly, in desire of getting a son, Dulal had entered into second marriage with Chandana (Appellant/Claimant). But as luck would have been, two daughters, namely, Payal & Pallavi were born out of the second wedlock. Both the daughters are unmarried. The Appellant/Claimant Chandana and Dulal have also stated that Dulal is having a triple storey Jhuggi No. C-226 and new double storey Jhuggi No. C-223/1 was

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purchased by the Appellant/Claimant, Chandana, and she started living there with her both the daughters. Dulal after few years went back to live with his first wife Usha Rani but he is frequently visiting and looking after the Appellant/Claimant, Chandana.

JHUGGI NO. C-226

18. The Appellant/Claimant Chandana and Dulal have also stated that Dulal along with his wife Usha Rani is living on the ground floor of the Jhuggi No. C-226 and also having a kitchen on the first floor and regarding that DDA has made allotment in favour of Usha Rani. These facts are not disputed by DDA.

19. The Appellant/Claimant Chandana and Dulal have also stated that the first floor of the Jhuggi No. C-226 was bearing separate number, i.e., Jhuggi No. C-226/1 and Sushma D/o Dulal along with her husband Vibhuti Mandal is living on the first floor bearing Jhuggi No. C-226/1 and regarding that DDA has made allotment in favour of Sushma. These facts are not disputed by DDA.

20. The Appellant/Claimant Chandana and Dulal have also stated that Kunti D/o Dulal is living on the second floor of the Jhuggi No. C-226 but she has not sought allotment from DDA against the second floor of the said Jhuggi No. C-226. These facts are not disputed by DDA.

JHUGGI NO. C-223/1

21. The Appellant/Claimant Chandana and Dulal have also stated that Chandana (Appellant/Claimant), along with her both the unmarried daughters, Payal & Pallavi born out of the second marriage with Dulal, is living in the double storey Jhuggi No. C-223/1 and it comprises of one room on each floor having a pucca staircase constructed outside in the gali for going to the upper floor. The room on the ground floor is used as a kitchen and the room on the first floor is used for residential purposes. The Appellant/Claimant has sought allotment against the double storey Jhuggi No. C-223 from DDA but her claim has been rejected by the Eligibility Determination Committee and aggrieved by the same, she has filed the present Appeal No. 176 of 2022 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in her favour.

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Videos of C-226

22. DDA has furnished the survey records along with two video clips of Jhuggi No. C-226. The video clips were played before the Appellant/Claimant when her statements was recorded before us on 26.04.2023 wherein the Appellant/Claimant has stated that one video clip pertains to the ground floor in which Usha Rani is seen on the ground floor and further, her room is seen but the kitchen is not seen on the ground floor. The second video clip pertains to the first floor of the Jhuggi No. C-226 (bearing Jhuggi No. C-226/1 in which the Sushma W/o Vibhuti Mandal is seen and further, her room & kitchen are also seen.

Videos of C-223/1

23. DDA has furnished the survey records along with one video clip of Jhuggi No. C-223/1. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 26.04.2023 wherein she has stated that the video clip pertains to the ground floor in which she is seen on the ground floor but the video of the first floor is not prepared. The Appellant/Claimant is heard stating that "the ground floor is used as kitchen and the first floor is used for residential purposes".

24. It is the admitted case of the Appellant/ Claimant that Dalal Goldar had married with Usha Rani in the year 1951 and six daughters were born from the first marriage. Dalal Goldat had entered into second marriage with the present Appellant/Claimant, Chandana Goldar without taking divorce from the first wife, Usha Rani and two daughters were born from the second marriage. They are having two Jhuggis in Bhoomiheen Camp. One is bearing Jhuggi No. C-226 and another is bearing Jhuggi No. C-223/1. DDA has made allotment in favour of Usha Rani, who is the first wife of Dalal Goldar against Jhuggi No. C-226. Whereas the present Appellant/Claimant, Chandana Goldar, who is the second wife of Dalal Goldar has sought allotment from DDA against Jhuggi No. C-223/1. Therefore, both the wives (Usha Rani & Chandana Goldar) of Dalal Goldar are seeking allotments from DDA even though on separate Jhuggis.

25. The material placed on file shows that allotment has already been made in favour of Usha Rani, who is the first wife of Dalal Goldar, and accordingly second allotment cannot be made in favour of the present Appellant/Claimant, Chandana Goldar, who is the second wife of Dalal Goldar, as two allotments in favour of both the wives (Usha Rani & Chandana Goldar) of Dalal Goldar are not permissible as per the policy

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guidelines issued by DDA because Dalal Goldar had married with the present Appellant/Claimant, Chandana Goldar without taking divorce from the first wife, Usha Rani. Hence, the second wife (Chandana Goldar) cannot claim allotment when allotment has already been made in favour of the first wife (Usha Rani) especially when the husband had remarried her without taking divorce from the first wife. Both the wives of Dalal Goldar cannot seek allotments from DDA. Accordingly, the Eligibility Determination Committee has rightly rejected the claim of the Appellant/Claimant

26. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card 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.

27. The Appellant/Claimant has tendered her Voter ID Card No. ARE 1165992 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-E), Voter list of the year 2014 (Annexure-H) and Voter List of the year 2019 (Annexure-I).

28. It is pointed out that the Voter ID Card No. ARE 1165992 (Annexure-A) has been issued on 23.10.2008, much before the cut off date of 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 110 in the Voter List of the year 20104 (Annexure-H) and at Sl. No. 102 in the Voter List of the year 2019 (Annexure-I). Therefore, we have no hesitation in holding that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and her name also appears in at least on the voter list of the year's 2014 & also in the year of survey.

29. The Appellant/Claimant has tendered the Electricity Bill (Annexure-C), Passbook of PNB (Annexure-D) and Ration Cards (Annexure-F & Annexure-G).

30. It is pointed out that the Electricity Bill (Annexure-C) shows that the Appellant/Claimant had taken the electricity connection on 14.06.2008. The Passbook of PNB (Annexure-D) shows that the Appellant/Claimant had opened the account on 27.08.2014. The Appellant/Claimant has tendered the Ration Cards (Annexure-F & Annexure-G). The first Ration Card (Annexure-F) has been issued on 17.03.2005 in favour of the Appellant/Claimant in which the name of both her daughters, Payal & Pallavi have been mentioned. The new Ration Card (Annexure-G) has been issued in favour of the Appellant/Claimant on 27.05.2014 and the name of both her daughters,

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Payal & Pallavi are also mentioned. 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 second wife (Chandana Goldar) cannot claim allotment when allotment has already been made in favour of the first wife (Usha Rani) of Dulla Golder especially when the husband had remarried her without taking divorce from the first wife. Both the wives (Usha Rani & Chandana Goldar) of Dalal Goldar can seek allotments 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.

31. The material placed on file shows that Dulal has entered into two marriages. He had entered into first marriage with Usha Rani and from the first marriage he is having 6 daughters, namely, Sushma, Bulbul, Gauri, Sandhya, Kunti & Gita. All the daughters are married. Dulal has entered into second marriage with Chandana Golder (Appellant/Claimant). The first wife Usha Rani was very much alive, when Dulal had entered into second marriage with Chandana Golder and they are having two daughters, Payal & Pallavi from the second marriage. It is not disputed that DDA has made allotment in favour of Usha Rani (the first wife of Dulal) as well as Sushma D/o Dulal. This accordingly shows that DDA had already made allotment in favour of Usha Rani, who is the first wife of Dulal, against the Jhuggi No. C-223, Bhoomiheen Camp and accordingly his second wife Chandana Golder (Appellant/Claimant) cannot seek second allotment against another Jhuggi No. C-223/1, Bhoomiheen Camp. It is also pointed out that the first wife of Dulal Golder, is still alive and they have yet not taken divorce. Dulal has categorically stated that even though he is living with his wife Usha Rani, but he is frequently visiting and looking after his second wife Chandana Golder. It is pertinent to point out that as per the policy/guidelines issued by DDA, only one allotment can be made in favour of spouse. The second wife cannot seek allotment as per the policy/guidelines of DDA as DDA has already made allotment in favour of his first wife, Usha Rani and accordingly, two allotments are not permissible. But the Appellant/Claimant has tried in futility to get two allotments from DDA. The documents, Annexure-A to Annexure-I, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the second wife (Chandana Goldar) cannot claim allotment when allotment has already been made in favour of the first wife (Usha Rani) of Dulla Golder especially when the husband had remarried her

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without taking divorce from the first wife. Both the wives (Usha Rani & Chandana Goldar) of Dalal Goldar can seek allotments 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

32. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/061.G/960 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

33. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 239 of 2023

Date of Institution: 23.11.2022

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Beena Haldar D/o Govind Haldar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-177, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-177 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/7/93.1/1647 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 239 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-177 was found to exist on the upper floor but she had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as she has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was

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put up before us for the first time on 04.01.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 01.03.2023. But she had again failed to appear on 01.03.2023 and accordingly the Notice for Appearance was issued for 26.04.2023. But she failed to appear on 26.04.2023 and accordingly fresh notice was issued for 18.05.2023 to procure her presence. The file was taken up again on 08.05.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in

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Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

12. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling her on her mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 239 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether she is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on

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the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA.

16. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 385/7/93.1/1647 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 239 of 2023 instituted on 23.11.2022 is dismissed being devoid of any merit.

17. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh)
Jt. Secretary (Retd.) GOI
MEMBER

(Satish Ahlawat)
Addl. District & Sessions Judge (Retd.)
CHAIRMAN

(Rachna Tiwary)
EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 326 of 2023

Date of Institution: 28.11.2022

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Pradeep Mandal S/o Nisha Pada Mandal

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-225, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-225 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/59/62.2/1191 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 326 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-225 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was

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put up before us for the first time on 12.01.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 27.03.2023. But he had again failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 28.04.2023. But he failed to appear on 28.04.2023 and accordingly fresh notice was issued for 29.05.2023 to procure his presence. But he again failed to appear on 29.05.2023 and accordingly fresh notice was issued for 10.07.2023 to procure his presence. The file was taken up again on 27.06.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for

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27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 326 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily

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required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

16. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/59/62.2/1191 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 326 of 2023 instituted on 28.11.2022 is dismissed being devoid of any merit.

17. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 384 of 2023

Date of Institution: 29.11.2022

Date of Order: 31.07.2023

Present: Appellant/Claimant Kamala Mandal W/o Fani Bhushan D/o Shayam Sardar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-421, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-421 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/37/003.G/989 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 384 of 2023 has been filed by the present Appellant/Claimant.

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3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 03.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-V, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is pointed out at the very outset that the material placed on file as well as the survey records furnished by DDA shows that the Jhuggi No. B-421, Bhoomiheen Camp of the Appellant/Claimant was found to exist and all the requisite documents, except Voter ID Card, were found and accordingly her claim was rejected on the sole ground that her voter ID card, was not found to have been verified.

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 on the cutoff date of 01.01.2015 whether she is entitled to claim allotment against Jhuggi bearing No. B-421 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant, Kamala Mandal, has been recorded before us on 03.07.2023 wherein she has stated that she was married with Fani Bhushan and having two sons, Gopal & Subhash and one daughter, Kavita. Fani Bhushan had expired about 22 years ago. All the children are married. Kavita is married with Sunil Sardar and having one son Sanjay and they were living in Jhuggi No. B-426 and regarding that DDA has made allotment in favour of her husband, Sunil from his parents side. Kavita has expired about two years ago. Gopal is married with Gita and having two sons, Ajay & Abhijit. Subhash is married with Manju and having two children, Harekrishna & Khushi.

9. The Appellant/Claimant has stated that her family is having two Jhuggis bearing Jhuggi No. B-420 and Jhuggi No. B-421. The Appellant/Claimant has stated that her son Gopal

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along with his wife Gita and children is living in Jhuggi No. B-420 and regarding that DDA has made allotment in favour of Gita. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that she along with the family of her son Subhash is living in the single storey Jhuggi No. B-421. The Appellant/Claimant has sought allotment against the said single storey Jhuggi No. B-421 from DDA but her has been rejected by the Eligibility Determination Committee and aggrieved by the same she has filed the present Appeal No. 384 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-V, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished the survey record along with one video clip pertaining to Jhuggi No. B-421. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 03.07.2023 wherein she has stated that the video clip pertains to the single storey Jhuggi No. B-421 in which she (Kamala-Appellant/Claimant) along with her son Subhash is seen and further, her room & kitchen are also seen.

12. It is pointed out that the survey team has prepared the survey report annexed with this file thereby showing that the last survey was conducted on 21.08.2019 of the Jhuggi of the Appellant/Claimant, Kamala, along with the family of her son, Subhash Mandal, including his wife, Manju, & two children, Harekrishna & Khushi, was found to be living in Jhuggi No. B-421 as per the Family Member Details given therein and further it has made a remark **"Lives in ground floor"** *(the spelling and formation of sentence ignored by us)* and it corroborates that the Appellant/Claimant along with her family, which comprised of her son Subhash Mandal & his wife Manju and children, Harekrishna & Khushi, was found to living on the ground floor of the Jhuggi No. B-421, Bhoomiheen Camp.

13. Here it pertinent to mention that in Para No. 1 of the proceedings conducted by EDC it is pointed out that in the survey records of DDA it is mentioned that the upper floor Jhuggi of the Appellant/Claimant was found to exist. But there seems to be some clerical/typographical mistake because in the survey records placed before us along with the photographs prepared by the survey team it is mentioned that the Appellant/Claimant along with her family, which comprised of her son Subhash Mandal & his wife Manju and children, Harekrishna & Khushi, was found to living on

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the ground floor of the Jhuggi No. B-421, Bhoomiheen Camp and it was also found to be used for "residential purposes". Thus the statement of the Appellant/Claimant as well as the video clips furnished by DDA as well as the survey records placed before us along with the photographs prepared by the survey team shows that the Jhuggi of the Appellant/Claimant regarding which survey was conducted by DDA's Survey Team is a single storey Jhuggi and the Appellant/Claimant along with her family, which comprised of her son Subhash Mandal & his wife Manju and children, Harekrishna & Khushi, was found to living in the single storey Jhuggi No. B-421, Bhoomiheen Camp and further the said Jhuggi was found to have been used for residential purposes.

14. There is nothing to disbelieve the statement of the Appellant/Claimant that her Jhuggi No. B-421, Bhoomiheen Camp is a single storey structure. Thus the statement of the Appellant/Claimant as well as the survey records/video clip has duly proved that the Jhuggi No. B-421of the Appellant/Claimant is a single storey structure and it was in existence in the Bhoomiheen Camp on the cut off date of 01.01.2015 and the said Jhuggi No. B-421 is used by the Appellant/ Claimant & her family for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. B-421 in Bhoomiheen Camp is a pucca single storey structure and it was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & her family has been using the said Jhuggi No. B-421 for residential purposes.

16. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. As per our discussion above, the Jhuggi No. B-421 of the Appellant/Claimant is found to be a single storey structure and the Appellant/ Claimant & her family has been using the said Jhuggi No. B-421 for residential purposes and accordingly the parameters for the ground floor are applicable.

17. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the said single storey Jhuggi bearing No. B-421 as per the policy guidelines issued by DDA.

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18. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-V, in support of her claim and prayed that DDA be directed to make allotment in her favour.

19. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

"**Part-B**

The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-

1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.

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11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

20. The bare perusal of the Policy shows that the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. In the light of our discussion above, we shall now appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment

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against the single storey Jhuggi bearing No. B-421 as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered her three Voter ID Cards (Annexure-A to Annexure-C), Aadhar Card (Annexure-D), Voter list of the year 2012 (Annexure-Q), Voter list of the year 2013 (Annexure-R), Voter list of the year 2014 (Annexure-S), Voter list of the year 2015 (Annexure-T), Voter list of the year 2018 (Annexure-U) and Voter list of the year 2023 (Annexure-V).

23. It is pointed out that the Appellant/Claimant has tendered three Voter ID Cards (Annexure-A to Annexure-C). The first Voter ID Card No. DL/03/035/246182 (Annexure-A) has been issued on 07.02.1995, much prior to the cutoff date 01.01.2015.

24. The Appellant/Claimant has stated that this Voter ID Card No. DL/03/035/246182 (Annexure-A) was discontinued by the Election Commission and a fresh Voter ID Card No. ARE 1155936 (Annexure-B) was issued on 27.07.2008 and the name of the Appellant/Claimant appears at Sl. No. 368 in the Voter list of the year 2012 (Annexure-Q), at Sl. No. 368 in the Voter List of the year 2013 (Annexure-R), at Sl. No. 443 in the Voter List of the year 2014 (Annexure-S), at Sl. No. 471 in the Voter List of the year 2015 (Annexure-T) and at Sl. No. 532 in the Voter List of the year 2018 (Annexure-U).

25. It is also pointed out that in all the above-mentioned Voter Lists of the years (Annexure-Q to Annexure-U), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be bearing No. ARE 1155936 (Annexure-B) and her address is mentioned to be Jhuggi No. B-421 regarding which she is claiming allotment from DDA. This shows that the Appellant/Claimant had used the Voter ID Card No. ARE 1155936 (Annexure-B) to cast her voter from 2012 to 2018 and the same has been duly reflected in the Voter List (Annexure-Q to Annexure-U).

26. It is also pointed out that the Appellant/Claimant has stated that the second Voter ID Card bearing number ARE 1155936 (Annexure-B) was misplaced and accordingly she got the third Voter ID Card bearing number ARE 2611820 (Annexure-C) of the Appellant/Claimant issued on 12.01.2023. Further, the name of the Appellant/Claimant appears at Sl. No. 1382 in the Voter List of the year 2023 (Annexure-V) and in that the number of the Voter ID Card of the Appellant/Claimant is mentioned to be ARE 2611820 (Annexure-C) and the address is mentioned to be

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Jhuggi No. B-421 regarding which the Appellant/Claimant has claimed allotment from DDA.

27. The material placed on file shows that the second Voter ID Card bearing number ARE 1155936 (Annexure-B) issued on 27.07.2008 and it remained operative till 2023 but it was misplaced and accordingly in its place the Appellant/Claimant got a new Voter ID Card No. ARE 2611820 (Annexure-C) issued on 12.01.2023. There is no doubt that when the Voter ID Card No. ARE 1155936 (Annexure-B) was misplaced then the proper course was to get the duplicate issued. But it seems that the Appellant/Claimant was ill advised to get a new Voter ID Card issued in her favour instead of getting the duplicate issued against the lost Voter ID Card No. ARE 1155936 (Annexure-B). The Appellant/Claimant is a widower, illiterate & senior citizen as her date of birth is recorded to be 01.01.1934 in the Aadhar Card (Annexure-D) and accordingly not following the correct procedure of getting the duplicate issued does not forfeit the legal right accrued to her especially when the material placed on file shows that the Appellant/Claimant has been continuously living in Jhuggi No. B-421 regarding which she has been claiming allotment from DDA and further she was having a valid Voter ID Card bearing number ARE 1155936 (Annexure-B) issued on 27.07.2008 and has been using the same for casting her vote continuously from 2012 to 2018 as reflected in the Voter list of the year 2012 (Annexure-Q), Voter list of the year 2013 (Annexure-R), Voter list of the year 2014 (Annexure-S), Voter list of the year 2015 (Annexure-T), Voter list of the year 2018 (Annexure-U) and has also used the Voter ID Card No. ARE 2611820 (Annexure-C) issued on 12.01.2023 to cast her vote in the year 2023 as reflected in the Voter list of the year 2023 (Annexure-V).

28. But the fact remains that the Appellant/Claimant was having a Voter ID Card, which was bearing number DL/03/035/246182 (Annexure-A) and that was issued on 07.02.1995, much prior to the cut off date of 01.01.2015. However, that old Voter ID Card (Annexure-A) was discontinued by the election commission and in its place new Voter ID Card bearing number ARE 1155936 (Annexure-B) was issued on 27.07.2008, much prior to the cut off date of 01.01.2015. The second Voter ID Card bearing number ARE 1155936 (Annexure-B) was used by the Appellant/Claimant for casting her vote continuously from 2012 to 2018 as reflected in the 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) and Voter list of the year 2018

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(Annexure-U). The new Voter ID Card bearing number ARE 2611820 (Annexure-C) of the Appellant/Claimant issued on 12.01.2023 was used to cast her vote in the year 2023 as reflected in the Voter list of the year 2023 (Annexure-V) and accordingly, legal inference can be drawn that the Voter ID Card bearing number ARE 1155936 (Annexure-B) which was issued on 27.10.2008 had continued to be exist till the new Voter ID Card No. ARE 2611820 (Annexure-C) was issued on 12.01.2023.

29. Thus we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 and this voter ID Card has been issued on the address of Jhuggi No. B-421 regarding which the present Appellant/ claimant has claimed allotment from DDA and further her name also appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. This shows that the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and her name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and she accordingly fulfills the eligibility criteria as per the guidelines issued by DDA.

30. The Appellant/Claimant has tendered Voter ID Card No. ARE 1155944 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her son Subhash and Voter ID Card No. CXY 1074434 (Annexure-H), Aadhar Card (Annexure-I) & PAN Card (Annexure-J) of her daughter-in-law Manju, Aadhar Cards (Annexure-K & Annexure-L) of her grandchildren, Harekrishna & Khushi, Caste Certificate (Annexure-M) and the Passbook of PNB (Annexure-N).

31. It is pointed out that Voter ID Card No. ARE 1155944 (Annexure-E) has been issued on 27.10.2008 and Voter ID Card No. CXY 1074434 (Annexure-H) has been issued on 07.03.2002. The Cast Certificate (Annexure-M) of Subhash has been issued on 08.09.2015. The Passbook of PNB (Annexure-N) shows that Manju has opened the account on 26.08.2014 much prior to the cutoff date 01.01.2015. Further, it is pointed out that the abovementioned documents have been issued on the address of Jhuggi No. B-421 regarding which the Appellant/Claimant has been claiming allotment from DDA thereby showing that the Appellant/Claimant & her family members have been living there since long and especially much prior to the cutoff date of 01.01.2015 in the Jhuggi No. B-421 regarding which the present Appellant/Claimant has claimed allotment from DDA. This further shows that the Appellant/Claimant is having

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requisite documents and accordingly she fulfills the eligibility criteria as per the guidelines issued by DDA.

32. Here it pertinent to mention that in Paras No. 1 of the proceedings conducted by EDC it is pointed out that in the survey records of DDA it is mentioned that the upper floor Jhuggi of the Appellant/Claimant was found to exist but the statement of the Appellant/Claimant as well as the video clips furnished by DDA shows that the Jhuggi of the Appellant/Claimant regarding which survey was conducted by DDA's Survey Team was found on the ground floor. But even if for the sake of arguments, it is taken to be gospel truth that the survey team had correctly found the Jhuggi of the Appellant/Claimant was found to be in existence on the upper floor at the time of survey then also it is of no consequence because the Appellant/Claimant fulfills the criteria for the upper floor also.

33. The bare perusal of the Policy enumerated in Para No. 19 above, shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card, on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

34. We have already pointed out that the material placed on file has proved that the Appellant/Claimant is having required document, Voter ID Card, and her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Now it has to be seen whether the Appellant/Claimant is also having a separate Ration Card.

35. The Appellant/Claimant has tendered her two Ration Cards (Annexure-O & Annexure-P). The old Ration Card (Annexure-O) has been issued in her favour on 22.08.2002 much prior to the cutoff date 01.01.2015 and the name of the entire family members have been mentioned. The Appellant/Claimant has also tendered her new Ration Card (Annexure-P), which has been issued in her favour and the name of the entire family members have been mentioned but date of issuance is not mentioned. The material placed on file shows that the old Ration Card (Annexure-O) was issued on 22.08.2002 and after that new Ration Card (Annexure-P) was issued and accordingly, a legal inference about its continuation can be presumed that it has been issued in

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continuation of the old Ration Card (Annexure-0), which was issued on 22.08.2002. This accordingly shows that the Appellant/Claimant is having Ration Cards from the year 2002 up till this date on the address of Jhuggi No. B-421 and the same is duly corroborated by documents, Annexure-0 & Annexure-P and in both the Ration Cards, the names of the family members have also been mentioned thereby corroborating the statement of the Appellant/Claimant that she along with her family has been continuously living in Jhuggi No. B-421 since long and more specifically on the cut off date 01.01.2015. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a separate ration card in her name on the cutoff date of 01.01.2015 on the address of Jhuggi No. B-421 regarding which the Appellant/Claimant has claimed allotment from DDA. This shows that the Appellant/Claimant along with her family has been living since very long, and specifically on the cut off date of 01.01.2015, in Jhuggi No. B-421. In the light of our detailed discussion above, the material placed on file shows that the Appellant/ Claimant was having all the requisite documents, including Voter ID card & a separate Ration Card, on the cutoff date of 01.01.2015 and further her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, she fulfills the eligibility criteria as per the guidelines issued by DDA.

36. Hence, we have no hesitation in holding that the single storey Jhuggi No. B-421, Bhoomiheen Camp was in existence much prior to the cutoff date of 01.01.2015 and further, the Appellant/ Claimant & her family has been using the said Jhuggi No. B-421 for residential purposes and further the Appellant/ Claimant was having all the requisite documents, including Voter ID card, on the cutoff date of 01.01.2015 and her name also appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Therefore, the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA.

37. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/Claimant fulfills the eligibility criteria as per the guidelines issued by DDA but the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present Appeal No. 384 of 2023 stands allowed, hereby, setting aside the impugned order bearing No. 385/37/003.G/989 dated 07.11.2022. DDA is hereby directed to make allotment in favour of Appellant/Claimant

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Kamala Mandal W/o Fani Bhushan D/o Shayam Sardar, in respect of the Jhuggi No. B-421, Bhoomiheen Camp.

38. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 416 of 2023

Date of Institution: 29.11.2022

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Sonu Paswan S/o Jai Nandan Paswan

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-62, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-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 Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/62/067.G/1337 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved

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by the same, the present Appeal No. 416 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-62 was found to exist but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us except on two dates, i.e, 20.01.2023 & 17.04.2023. The

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perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 20.01.2023 and after conducting oral enquiry the matter was fixed for 24.03.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the file was taken up on 23.03.2023 as we had not conducted proceedings on 24.03.2023 and the appeal was fixed for 17.04.2023. The Appellant/ Claimant had appeared on 17.04.2023 and on his request the matter was fixed for 29.05.2023. Bur he had failed to appear on 29.05.2023 and accordingly the Notice for Appearance was issued for 08.06.2023 to procure the appearance of the present Appellant/ Claimant. But the file was taken up on 08.05.2023 and the appeal was fixed for 21.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

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10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 416 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the years

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2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

16. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/62/067.G/1337 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 416 of 2023 instituted on 29.11.2022 is dismissed being devoid of any merit.

17. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 598 of 2023

Date of Institution: 08.12.2022

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Babu Lal S/o Hallu Ram

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-173, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. A-173 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/66/83.1.1/1492 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 425 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. A-173 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us except on one date, i.e, 23.01.2023. The perusal of the

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Zimni Orders shows that the Appeal was put up before us for the first time on 23.01.2023 and after conducting oral enquiry the matter was fixed for 27.03.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 26.04.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 29.05.2023. But the file was taken up on 08.05.2023 and the appeal was fixed for 21.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

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10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 425 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's

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2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

16. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/66/83.1.1/1492 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 425 of 2023 instituted on 29.11.2022 is dismissed being devoid of any merit.

17. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Rambir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 538 of 2023

Date of Institution: 05.12.2022

Date of Order: 31.07.2023

Present: Appellant/ Claimant Deepankar Mallick S/o Dilip Mallick

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-250, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. C-250 was found to exist on the upper floor but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No.

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385/36/78.2/968 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 538 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. The statement of the Appellant/Claimant has been recorded before us on 06.07.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Prakash Chand, Dy. Director, & Sh. Lokesh Meena, Assistant Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/Claimant's Jhuggi bearing No. C-250 was found to exist on the upper floor but he had failed to submit required documents, i.e., Ration Card on the cutoff date of 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card for Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA

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7. The statement of the Appellant/Claimant, Deepankar Mallick, has been recorded before us on 06.07.2023, wherein he has stated that his parents, Dilip & Subhasini, are having two sons, Deepankar & Devasishi and one daughter Puja. Puja and Devasish are unmarried whereas Deepankar (Appellant/Claimant) is married with Puja.

8. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. C-250 and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali for going to the upper floor.

9. The Appellant/Claimant has stated that his parents, Dilip & Subhasini, along with their unmarried children, Puja and Devasish, are living on the ground floor of the Jhuggi No. C-250 and regarding that DDA has made allotment in favour of his mother Subhasini. These facts are not disputed by DDA.

10. The Appellant/Claimant has stated that he along with his wife Puja is living on the first floor of the Jhuggi No. C-250. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. C-250 but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 538 of 2023 before the Appellate Authority for redressal. The Appellant/Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished the survey record along with two video clips pertaining to Jhuggi No. C-250. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 06.07.2023 in which the Appellant/Claimant has stated that first video clip pertains to the ground floor of Jhuggi No. C-250, in which his mother Subhasini is seen and further, her room & kitchen are also seen. The second video Clip pertains to the first floor of Jhuggi No. C-250, in which the Appellant/Claimant is seen and further, his room & kitchen are also seen. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that double storey Jhuggi No C-250 was in existence in the Bhoomiheen Camp on the cutoff date of 01.01.2015 and ground floor has been used for residential purposes by his parents, Dilip & Subhasini, along with their unmarried children, Puja and Devasish, whereas the first floor of the said Jhuggi No C-250 has been used for residential purposes by the Appellant/Claimant.

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12. Accordingly, we have no hesitation in holding that the double storey Jhuggi No C-250, Bhoomiheen Camp is a pucca structure and the Appellant/Claimant was using the first floor of the said Jhuggi for residential purposes.

13. Now we shall first appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

14. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of his claim and prayed that DDA be directed to make allotment in his favour.

15. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cut off date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cut off date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a separate Ration Card on the cutoff date of 01.01.2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 385/36/72.2/968 dated 07.11.2022.

16. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.

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2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.

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- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

DWELLER CLAIMING ALLOTMENT AGAINST SINGLE STOREY JHUGGI (Ground Floor) AS PER DDA POLICY

17. As per Part–B Para 6 of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for allotment if he possesses any of the remaining documents.

DWELLER CLAIMING ALLOTMENT AGAINST UPPER FLOOR OF JHUGGI AS PER DDA POLICY

18. As already pointed out above, condition contained in Part–B Para 10 of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

19. Thus Part–B Para 10 of the DDA policy makes the requirement of having a ration card, being a single mandatory document, must for the dweller claiming allotment against upper floor. This make it clear that as per DDA policy, the dweller claiming allotment against ground floor must have any of the 12 documents, including ration card, issued before 01.01.2015. But the dweller claiming allotment against upper floor is not having any of such option to have any of the 12 documents but for him it is mandatory to have

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only one document, namely, ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming allotment against upper floor, to have a ration card issued before the cutoff date of 01.01.2015.

GIST OF THE POLICY

20. The bare perusal of the Policy shows that for claiming allotment for upper floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card & a separate Ration Card on the cut off date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

21. Now we shall appraise the material placed on file to evaluate the eligibility on other parameters to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor as per the policy guidelines issued by DDA.

22. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-A/1), Aadhar Card (Annexure-B), PAN Card (Annexure-C), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2019 (Annexure-K).

23. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & Annexure-A/1). The first Voter ID Card bearing number DL/03/035/249123 (Annexure-A) has been issued on 23.02.1995 and the second Voter ID Card bearing number ARE 1771244 (Annexure-A/1) has been issued on 25.09.2013. Thereby, showing that both the Voter ID Cards have been issued much prior to the cutoff date 01.01.2015. The name of the Appellant/Claimant appears at Sl. No. 589 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 601 in the Voter List of the year 601 (Annexure-K). Accordingly, we have no hesitation in holding that

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the Appellant/Claimant was having a valid Voter ID Card on the cut off date of 01.01.2015 and his name appear in the Voter List of 2014 & of the year of survey.

24. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. C-250 regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered two Ration Cards (Annexure-H & Annexure-I). The old Ration Card (Annexure-H) has been issued in favour of his father Dilip on 22.06.2002 and the name of the Appellant/Claimant is mentioned. The new Ration Card (Annexure-I) has been issued in favour of his mother Subhasini and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of third floor of the Jhuggi No. C-250 regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

25. The Appellant/Claimant has tendered his Driving License (Annexure-D), Aadhar Card (Annexure-E) of his wife Puja, the Passbook of United Bank of India (Annexure-F) and the Electricity Bill (Annexure-G).

26. It is pointed out that the Driving License (Annexure-D) has been issued on 15.09.2011. The Passbook of United Bank of India (Annexure-F) shows that the Appellant/Claimant had opened the account on 29.08.2014. The Electricity Bill (Annexure-G) shows that the electricity connection has been taken his father Dilip on 19.05.2008 on the ground floor of the Jhuggi No. C-250, thereby, showing that the Appellant/Claimant is not having electricity connection on the first floor of the Jhuggi No. C-250 regarding which he is claiming allotment from DDA. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because these document does not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor.

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27. The material placed on file shows that the Appellant/ Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015. The documents, Annexure-A to Annexure-K, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015.

Accordingly, we have no hesitation in holding that the Appellant/ Claimant was not having the requisite mandatory document, i.e., a separate Ration Card, on the cutoff date of 01.01.2015 in spite of the fact that he is claiming allotment from DDA against the upper floor. Therefore, he does not fulfill the eligibility criteria as per the guidelines issued by DDA in spite of the fact that the Appellant/ Claimant was having a Voter ID Card on the cut off date of 01.01.2015 and his name also appears in the voter list of the year's 2014 and also in the year of survey.

28. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/78.2/968 dated 07.11.2022. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

29. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 560 of 2023

Date of Institution: 06.12.2022

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Nityanand Patra S/o Putin Patra

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-602, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-602 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/36/52.1/958 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by

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the same, the present Appeal No. 560 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-602 was found to exist but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / / No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us except on one date, i.e, 06.02.2023. The perusal of the

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Zimni Orders shows that the Appeal was put up before us for the first time on 06.02.2023 and after conducting oral enquiry the matter was fixed for 27.03.2023 for tendering of documents by the parties in favour of their respective claim/stand. But he had failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 28.04.2023. The Appellant/ Claimant had failed to appear on 28.04.2023 and even on 29.05.2023 inspite of due service. The Appellant/ Claimant did not appear on 29.05.2023 and the Notice for Appearance was issued for 07.06.2023 to procure the appearance of the present Appellant/ Claimant. But the file was taken up on 30.05.2023 and the appeal was fixed for 21.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

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10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 560 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's

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2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

16. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/36/52.1/958 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 560 of 2023 instituted on 06.12.2022 is dismissed being devoid of any merit.

17. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

FORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE EVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ VELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 598 of 2023

Date of Institution: 08.12.2022

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Balram Roy S/o Jivan Roy

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-627, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-627 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/76.G/710 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 598 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-627 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us except on one date, i.e, 08.02.2023. The perusal of the

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Zimni Orders shows that the Appeal was put up before us for the first time on 08.02.2023 and after conducting oral enquiry the matter was fixed for 27.03.2023 for tendering of documents by the parties in favour of their respective claim/stand. But the Appellant/ Claimant had failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 26.04.2023 to procure the appearance of the present Appellant/ Claimant. But he had failed to appear on 26.04.2023. Fresh notice was issued on 26.04.2023 to procure his presence for 29.05.2023. But he had again failed to appear on 29.05.2023 and accordingly fresh notice was issued to procure his presence for 13.06.2023. But the file was taken up on 30.05.2023 and the appeal was fixed for 21.07.2023 to give priority to other cases and fresh notice was issued to procure his presence for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

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10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 598 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's

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2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

16. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/76.G/710 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 598 of 2023 instituted on 08.12.2022 is dismissed being devoid of any merit.

17. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 635 of 2023

Date of Institution: 28.12.2022

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Ram Pher S/o Ram Manohar

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-696, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-696 was found to exist against which there were two claimants, namely, the present Appellant/ Claimant Ram Pher and his brother, Mukesh and DDA has made allotment in favour of Mukesh. But the Appellant/ Claimant has concealed material facts to get double allotment against the same Jhuggi No. B-696 inspite of fact that double allotments against one dwelling unit is not permissible as per the guidelines issued by

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DDA. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/46.G/699 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 635 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-696 was found to exist but it was found that he has concealed material facts to get double allotment against the same Jhuggi No. B-696 inspite of fact that double allotments against one dwelling unit is not permissible as per the guidelines issued by DDA. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Two allotment in respect of one Jhuggi/Unit are not permissible as per policy guidelines"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the

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Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us except on one date, 13.02.2023. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 13.02.2023 and after conducting oral enquiry the matter was fixed for 27.03.2023 for tendering of documents by the parties in favour of their respective claim/stand but the Appellant/ Claimant had failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 26.04.2023. But he failed to appear on 26.04.2023 and accordingly fresh notice was issued for 29.05.2023 to procure his presence. But he again failed to appear on 29.05.2023 and accordingly fresh notice was issued for 20.06.2023 to procure his presence. The file was taken up again on 30.05.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special

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messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 635 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the

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Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further double allotments against one dwelling unit is not permissible as per the guidelines issued by DDA.

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA. Further, as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-696 was found to exist against which there were two claimants, namely, the present Appellant/ Claimant Ram Pher and his brother, Mukesh and DDA has made allotment in favour of Mukesh. But the Appellant/ Claimant has concealed material facts to get double allotment against the same Jhuggi No. B-696 inspite of fact that double allotments against one dwelling unit is not permissible as per the guidelines issued by DDA

16. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/49.G/701 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 635 of 2023 instituted on 28.02.2022 is dismissed being devoid of any merit.

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17. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranbir Singh)	**(Satish Ahlawat)**	**(Rachna Tiwary)**
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 636 of 2023

Date of Institution: 28.12.2022

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Mukesh Kumar S/o Tribhuwan Yadav

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-696, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-696 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/47.G/700 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 636 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-696 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Voter Card not verified"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was

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put up before us for the first time on 13.02.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 27.03.2023. But he had again failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 26.04.2023. But he failed to appear on 26.04.2023 and accordingly fresh notice was issued for 29.05.2023 to procure his presence. But he again failed to appear on 29.05.2023 and accordingly fresh notice was issued for 20.06.2023 to procure his presence. The file was taken up again on 30.05.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for

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27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 636 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily

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required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

16. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/47.G/700 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 636 of 2023 instituted on 28.12.2022 is dismissed being devoid of any merit.

17. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 678 of 2023

Date of Institution: 19.01.2023

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Ajit S/o Jay Prakash

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-513, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-513 was found to exist on the upper floor but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/19/35.1/812 dated 07.11.2022 to the

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present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 678 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-513 was found to exist on the upper floor but he had failed to submit required documents, i.e., valid Voter ID Card, Ration Card & voter lists etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"No Separate Ration Card For Upper Floor Jhuggi"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was

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put up before us for the first time on 16.02.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 27.03.2023. But he had again failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 28.04.2023. But he failed to appear on 26.04.2023 and accordingly fresh notice was issued for 29.05.2023 to procure his presence. But he again failed to appear on 29.05.2023 and accordingly fresh notice was issued for 13.06.2023 to procure his presence. The file was taken up again on 30.05.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

10. However, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for

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27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

11. However, still none appeared on 27.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 28.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

12. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

13. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 678 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

14. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily

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required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey

15. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

16. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/19/35.1/812 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 678 of 2023 instituted on 19.01.2023 is dismissed being devoid of any merit.

17. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF BHOOMIHEEN CAMP, GOVIND PURI EXTENSION, KALKAJI.

Appeal No: 713 of 2023

Date of Institution: 28.01.2023

Date of Order: 31.07.2023

Present: None for the Appellant/ Claimant Amarnath Kashyap S/o Dori Lal Kashyap

Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director, for DDA

ORDER

1. This order disposes off the present Appeal filed by the Appellant/Claimant against order dated 07.11.2022 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-694, Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the Competent Authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/Claimant was given an opportunity for submission of required documents. As per survey record, the Appellant/Claimant's Jhuggi bearing No. B-694 was found to exist against which there were two claimants, namely, the present Appellant/ Claimant Amarnath Kashyap and his daughter-in-law, Laxmi Devi and on the request of the Appellant/ Claimant, DDA has made allotment in favour of Laxmi Devi. But the Appellant/ Claimant has concealed material facts to get double allotment against the same Jhuggi No. B-694 inspite of fact that double allotments

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against one dwelling unit is not permissible as per the guidelines issued by DDA. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/10/49.G/701 dated 07.11.2022 to the present Appellant/Claimant. Aggrieved by the same, the present Appeal No. 326 of 2023 has been filed by the present Appellant/Claimant.

3. In response to the notice, the Appellant/Claimant has not appeared in person inspite of several notices/reminders. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.

4. It is pointed out that as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-694 was found to exist but it was found that he has concealed material facts to get double allotment against the same Jhuggi No. B-694 inspite of fact that double allotments against one dwelling unit is not permissible as per the guidelines issued by DDA. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/Claimant, which was communicated to his by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be **"Two allotment in respect of one Jhuggi/Unit are not permissible as per policy guidelines"** and aggrieved by the same the Appellant/Claimant has come before us by way of filing the present Appeal.

5. First of all, we shall discuss the legal position under the DDA policy. The jurisdiction and procedure of the Appellate Authority are prescribed in Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi & the Standard Operating Protocol (SOP) for Appellate Authority. The salient points are reproduced below: -

"The Appellate Authority shall decide the appeal as per provisions of Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA and Protocol for removal of Jhuggis and JJ bastis in Delhi. The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit on the basis of documents submitted by the Appellant/Claimant during proceeding of appeal. The Standard Operating Protocol (SOP) for Appellate Authority also prescribes that the Appellate Authority shall decide the appeal maximum within one month. The appeal shall be disposed of on the day of first hearing itself. But in case due to some inevitable reason(s), if the appeal cannot be finalized on the given date and time, the Appellate Authority shall inform the next date of hearing to the

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Appellant/Claimant and record the same in the proceedings. The appeal shall however, be disposed off in such cases in not more than one hearings."

6. It is pertinent to point out that several notices/reminders were issued to the Appellant/ Claimant to procure his presence but without any response as he has never appeared before us. The perusal of the Zimni Orders shows that the Appeal was put up before us for the first time on 21.02.2023 but the Appellant/ Claimant had failed to appear and accordingly Notice for Appearance was issued for 27.03.2023. But he had again failed to appear on 27.03.2023 and accordingly the Notice for Appearance was issued for 26.04.2023. But he failed to appear on 26.04.2023 and accordingly fresh notice was issued for 29.05.2023 to procure his presence. But he again failed to appear on 29.05.2023 and accordingly fresh notice was issued for 22.06.2023 to procure his presence. The file was taken up again on 30.05.2023 to give priority to this appeal and accordingly it was fixed for 21.07.2023 for conducting further proceedings. But the Appellant/ Claimant had failed to appear on 21.07.2023 in spite of due service.

7. On 21.07.2023 fresh notice was issued for 24.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

8. However, still none appeared on 24.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 25.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number. However, still none appeared on 25.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 26.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main

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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, still none appeared on 26.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 27.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number.

9. However, still none appeared on 28.07.2023 on behalf of the Appellant/Claimant. In the interest of justice Final Notice was given to the Appellant/Claimant for 31.07.2023 with the direction that it be got served by deputing an official/special messenger and the copy of the same be also pasted on the Notice Board in Bhoomiheen Camp as well as on the main gate of the Jhuggi, which is subject matter of the present appeal and in addition to that an attempt be also made to intimate the Appellant/Claimant by calling him on his mobile number. But the Appellant/Claimant has neglected and failed to join the proceedings before us on 31.07.2023 in spite of issuance of repeated notice(s) through various modes. This shows that the Appellant/Claimant is not interested to pursue his Appeal. No further wait is warranted. In view of the matter before straightway dismissing the present Appeal No. 713 of 2023 in default and accordingly rejecting the same we shall appraise the documents available on record to determine the eligibility of the Appellant/Claimant as to whether he is entitled for alternate allotment as per policy guidelines issued by DDA.

10. The bare perusal of the Policy shows that for claiming allotment for ground floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further also

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that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation. Therefore, the Appellant/Claimant is mandatorily required to be not less than 18 years of age and he/she must also possess a Voter ID Card on the cut off date of 01.01.2015 and his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further double allotments against one dwelling unit is not permissible as per the guidelines issued by DDA.

11. The material placed on file shows that the Appellant/ Claimant was not having required documents, i.e., valid Voter ID Card & voter lists etc. as on 01.01.2015 and his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. The documents available on file are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA.

Further, as per survey record, the Appellant/Claimant's Jhuggi bearing No. B-694 was found to exist against which there were two claimants, namely, the present Appellant/ Claimant Amarnath Kashyap and his daughter-in-law, Laxmi Devi, and DDA has made allotment in favour of Laxmi Devi. But the Appellant/ Claimant has concealed material facts to get double allotment against the same Jhuggi No. B-694 inspite of fact that double allotments against one dwelling unit is not permissible as per the guidelines issued by DDA

12. In view of the matter the present we have no hesitation in holding that the Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 385/10/49.G/701 dated 07.11.2022. Hence the same is upheld. Consequently, the present Appeal No. 635 of 2023 instituted on 28.02.2022 is dismissed being devoid of any merit.

13. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed

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by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594 / 2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

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(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**