JAILORWALA BAGH COLONY, ALLOWED/REJECTED CASE LIST OF 01.10.2024 TO 31-10-2024 OCTOBER 2024

S.No	Appl. No.		Appl. Date	Applicant Name	Father's Name	Jhuggi No	Decision	Order Date
1.	254	2024	16-05-2024	Anju Kumari	Jai Kumar	A-129/1	Rejected	01-10-2024
2.	267	2024	30-08-2024	Anup Jaiswal	Avadh Raj Jaiswal	B-96	Rejected	01-10-2024
3.	120	2024	13-07-2023	Anju	Sanjay Kumar	G-31	Rejected	03-10-2024
4.	257	2024	16-05-2024	Sarita Devi	Vikas Kumar	A-29	Rejected	03-10-2024
5.	263	2024	16-05-2024	Esraji Devi	Pattu Ram	H-221 (N-207/332)	Rejected	04-10-2024
6.	215	2024	24-07-2023	Ramu	Bahadur	C-11	Rejected	04-10-2024
7.	180	2024	18-07-2023	Rajender Yadav	Ramdhar Yadav	A-24	Rejected	07-10-2024
8.	136	2024	14-07-2023	Nirmala Devi	Karam Das	F-348	**Allowed**	07-10-2024
9.	188	2024	18-07-2023	Dileep Kumar	Sunder Lal	H-183	Rejected	08-10-2024
10.	41	2024	10-07-2023	Uma Shankar	Jhinu Ram	N-207/525	**Allowed**	08-10-2024
11.	192	2024	19-07-2023	Raj Kumar	Ram Pyare	H-249	Rejected	09-10-2024
12.	87	2024	12-07-2023	Kalmi	Ram Bihari	I-86	**Allowed**	09-10-2024
13.	15	2024	03-05-2023	Subedar	Phool Chand	G-24/N-207/121	Rejected	10-10-2024
14.	189	2024	18-07-2023	Sarita	Ram Asre	N-207/121	Rejected	10-10-2024
15.	105	2024	13-07-2023	Phoola Devi	Vinod Kumar	I-88	Rejected	11-10-2024
16.	225	2024	25-07-2023	Manju	Sunil	H-150	**Allowed**	11-10-2024
17.	134	2024	14-07-2023	Mata Deen	Ram Milan	H-296/N-207/235	Rejected	14-10-2024

18.	30	2024	08-05-2023	Vinod Kumar	Sh. Parkash	F-37/CN-356	**Allowed**	14-10-2024
19.	74	2024	12-07-2023	Meena Devi	Ram Milan	H-842	**Allowed**	15-10-2024
20.	135	2024	14-07-2023	Laxmi	Fool Chand	A-119	Rejected	15-10-2024
21.	100	2024	13-07-2023	Aarti	Dharmender Singh	B-256	Rejected	16-10-2024
22.	04	2024	01-05-2023	Shakuntla Devi	Lalan Prasad	F-86	**Allowed**	16-10-2024
23.	142	2024	17-07-2023	Shanti	Ek Ram	E-19/N-207/1450	Rejected	21-10-2024
24.	226	2024	25-07-2023	Radha	Inddrasan	G-41/6	Rejected	21-10-2024
25.	250	2024	05-09-2023	Asha Rani	Shyam Bali	C-47	Rejected	22-10-2024
26.	59	2024	12-07-2023	Jeet Bahadur	Sita Ram	A-82	Rejected	22-10-2024
27.	93	2024	12-07-2023	Man Bhavti	Joginder	E-04	Rejected	23-10-2024
28.	260	2024	10-05-2024	Md. Sadik	Sabir	F-116	Rejected	23-10-2024
29.	150	2024	17-07-2023	Vishwanath	Ram Dulare	H-32	**Allowed**	24-10-2024
30.	57	2024	12-07-2023	Leelawati	Malta Prasad	H-75	Rejected	24-10-2024
31.	118	2024	13-07-2023	Rahul	Ram Pher	N-207/467,Blk-H	Rejected	25-10-2024
32.	125	2024	13-07-2023	Guddu ,	Tilak Dhari Saroj	H-201	Rejected	25-10-2024
33.	38	2024	12-05-2023	Rahul	Radhey Shyam	B-78	Rejected	29-10-2024
34.	43	2024	11-07-2023	Rajo	Janvesh	F-216	Rejected	29-10-2024
35.	152	2024	17-07-2023	Manoj Kumar	Kalpnath	H-11	Rejected	30-10-2024
36.	234	2024	27-07-2023	Ram Ashish	Shawan Dev	G-65	Rejected	30-10-2024

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

Appeal No: 254 of 2024

Date of Institution: 16.05.2024

Date of Order: 01.10.2024

Present: Appellant/ Claimant Anju Kumari W/o Jai Kumar

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-129/1, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-129/1 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

1.10.2024 1/10/2024 1/10/2024

Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-41/4.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 254 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 17.09.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-K, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-129/1 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. A-129/1 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant has been recorded before us on 17.09.2024, wherein she has stated that her parents, Shambhu Bhagat & Bechani Devi, are having one son, Deepak, and four daughters, Anju Kumari, Sanju, Khushbu & Chanchal. All the children

1.10.2024 1/10/2024 1/10/2024

except Anju are unmarried. Anju (Appellant/Claimant) is married with Jai Kumar and having three children, Dev Kumar, Tulsi & Shivangi. The Appellant/Claimant after marriage along with her family is living with her parents in Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that her parents, Shambhu Bhagat & Bechani Devi, are having a double storey Jhuggi No. A-129/1 and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that her parents, Shambhu Bhagat & Bechani Devi, along with their four unmarried children are living on the ground floor of the said Jhuggi No. A-129/1 and regarding that DDA has made allotment in favour of her mother Bechani Devi. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband, Jai Kumar, and all the three children, Dev, Tulsi & Shivangi, is living on the first floor of the said Jhuggi No. A-129/1. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. A-129/1 but her claim has been rejected by the Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly sought allotment from DDA against the first floor of the said Jhuggi No. A-129/1 and further, she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same she has filed the present Appeal No. 254 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished survey records along with one video clip of Jhuggi No. A-129/1. As per survey records the survey was got conducted on 21.03.2020 by Bechani Devi, who is the mother of the Appellant/Claimant on the ground floor of the Jhuggi No. A-129/1 and her photographs are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography Bechani Devi, who is the mother of the Appellant/Claimant was very much present and she had got the survey/videography conducted on the ground floor of the Jhuggi No. A-129/1 and the video clip is also attached in token thereof but no survey of the first floor was got conducted.

1.10.2024 1/10/2024 1/10/2024

13. DDA has furnished the survey records along with one video clip of Jhuggi No. A-129/1. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 17.09.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. A-129/1 in which from outside the Jhuggi No. A-129/1 is clearly seen to be a double storey pucca structure and a bamboo ladder placed outside in the gali used for going to the upper floor is seen and further, her parents, Shambhu Bhagat & Bechani, are seen and Shambhu Bhagat is seen getting the survey conducted on the ground floor on behalf of Bechani Devi and further, her room & kitchen are seen and further, her father Shambhu Bhagat is seen holding a slate in his hand on which **"A-129/1 BECHANI DEVI G+1"** is seen to have been written and further, no video clip of the first floor of the Jhuggi No. A-129/1 is available.

14. The Appellant/Claimant has categorically admitted that the survey was conducted by her mother Bechani Devi on 21.03.2020 and the Photograph (Annexure-K) of her mother Bechani Devi taken by the survey team is annexed with the survey records. Further, the Appellant/Claimant has also specifically admitted that she has not got the survey/videography conducted on the first floor of the Jhuggi No. A-129/1 regarding which she is claiming allotment from DDA. It is also pointed out that in the Ration Card (Annexure-J), the name of the Appellant/Claimant is jointly recorded as the member of the family of her parents and it shows that she along with her family was not living separately & independently but she was living jointly with her parents and this fact is corroborated by the fact that she has not got the survey/videography conducted because had she been living separately & independently then the Appellant/Claimant would have certainly got survey/videography conducted on the first floor of the Jhuggi No. A-129/1 regarding which she has been claiming allotment from DDA and furthermore, in the video clip prepared by the survey team, the presence of the parents of the Appellant/Claimant is very much seen and had the Appellant/Claimant been living separately and independently on the first floor of the Jhuggi No. A-129/1 then her parents would have made a statement to that effect to the survey team to that effect and also would have requested the survey team to get the survey conducted on the behalf of the Appellant/Claimant against the first floor of the said Jhuggi No. A-129/1 but nothing of this sort was done.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-129/1 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 but the

1.10.2024 11/10/2024 1/10/2024

material placed on file shows that the Appellant/Claimant along with her family has been living jointly with her parents, Shambhu Bhagat & Bechani Devi, in the said double storey Jhuggi No. A-129/1 and regarding that DDA has already made allotment in favour of her mother Bechani Devi and accordingly the Appellant/Claimant is not eligible to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-129/1 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-K, in support of her claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. A-129/1 in her favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-41/4.1 dated 01.07.2023.

1.10.2024 1/10/2024 1/10/2024

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

> **"Part-B**
> **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.

1.10.2024

1/10/2024

1/10/2024

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

1.10.2024 1/10/2024 1/10/2024

12 documents.

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

1.10.2024

1/10/2024

1/10/2024

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

1.10.2024 1/10/2024 1/10/2024

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

1.10.2024 1/10/2024 1/10/2024

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

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

1.10.2024 1/10/2024 1/10/2024

alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

36. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double

1.10.2024 1/10/2024 1/10/2024

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

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

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

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

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

1.10.2024 1/10/2024 1/10/2024

2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

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

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

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

42. It is pointed out that we have already held that the double storey Jhuggi No. A-129/1 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 but the material placed on file shows that the Appellant/Claimant along with her family has been living jointly with her parents, Shambhu Bhagat & Bechani Devi, in the said double storey Jhuggi No. A-129/1 and regarding that DDA has already made allotment in favour of her mother Bechani Devi and accordingly the Appellant/Claimant is not eligible to claim alternative allotment from DDA because double allotment against the same Jhuggi is not permissible as per the policy guidelines issued by DDA. But despite that the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi and accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012,

1-10-2024 1/10/2024 1/10/2024

2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-129/1 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered Voter ID Card No. WHC 3672581 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

45. It is pointed out that the Voter ID Card No. WHC 3672581 (Annexure-A) of the Appellant/Claimant has been issued on 15.09.2023, much after the cutoff date 01.01.2015 and accordingly, the question of her name appearing in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. The Appellant/Claimant has tendered her Aadhar Card No. 8287 1501 8844 (Annexure-B) but the date of issuance is not mentioned.

46. It is also pointed out that the Appellant/Claimant has tendered her Birth certificate (Annexure-G) in which her Date of Birth is recorded to be 01.04.1997 and in the PAN Card (Annexure-C) also her Date of Birth is recorded to be 01.04.1997 and accordingly, and this shows that she was minor on the cutoff date 01.01.2015, therefore the issuance of the Voter ID Card in favour of the Appellant/Claimant on the cutoff date 01.01.2015 does not arise because she happened to be below 18 years of age.

47. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-129/1 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. A-129/1 regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered Ration Card No. 077004521886 (Annexure-J), which has been issued in favour of her mother Bechani and the name of the Appellant/Claimant and her siblings have been recorded but the date of issuance is not mentioned. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. A-129/1, regarding which she is claiming allotment from DDA. Therefore, we have no

1.10.2024 1/10/2024 1/10/2024

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

49. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of her husband Jai Kumar, Electricity Bill (Annexure-F), the Passbook of Karnataka Bank (Annexure-H), the Passbook of SBI (Annexure-I) and Ration Card (Annexure-J) in support of her claim.

50. It is pointed out that the Appellant/Claimant has tendered Aadhar Card No. 5116 6373 7584 (Annexure-D) of her husband Jai Kumar but the date of issuance is not mentioned. The Appellant/Claimant has categorically stated that her husband Jai Kumar had applied for issuance of Voter ID Card in his favour but till now no Voter ID Card has been issued in his favour. This shows that neither the Appellant/Claimant nor her husband was having Voter ID Card on the cutoff date 01.01.2015 issued on the address of Jhuggi No. A-129/1 regarding which she has been claiming allotment from DDA and further their names also do not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Furthermore, Electricity Bill (Annexure-F) shows that electricity connection was taken by her father Shambhu on 02.02.2012, on the ground floor of the Jhuggi No. A-129/1, thereby, showing that the Appellant/Claimant was not having separate electricity connection on the first floor of the Jhuggi No. A-129/1 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of Karnatka Bank (Annexure-H) shows that the Appellant/Claimant and her husband Jai Kumar had opened the joint account on 24.03.2020, much after the cutoff date 01.01.2015. The Passbook of SBI (Annexure-I) shows that the Appellant/Claimant had opened the account but the date of opening of account is not mentioned in that document. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-129/1 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

1-10-2024

11/10/2024

1/10/2024

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

52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 issued on the first floor of Jhuggi No. A-129/1 regarding which she is claiming allotment from DDA in spite of the fact that she is claiming allotment from DDA against the upper floor AND further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-129/1 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-K, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

1.10.2024 1/10/2024 1/10/2024

53. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-41/4.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

54. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 16.05.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

1.10.2024 1/10/2024 1/10/2024

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

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

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

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

Appeal No: 267 of 2024

Date of Institution: 30.08.2024

Date of Order: 01.10.2024

Present: Appellant/ Claimant Anup Jaiswal S/o Avadh Raj Jaiswal

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-96, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. B-96 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

1.10.2024 1/10/2024 1/10/2024

rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/82.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 267 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 20.09.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-96 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. B-96 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Anup Jaiswal has been recorded before us on 20.09.2024 wherein he has stated that his parents, Avadh Raj Jaiswal & Pramila Devi, are having two sons; Ashish Rao & Anup. Both the sons are married. Ashish Rao is married with

1.10.2024 1/10/2024

Manisha and having three children. Anup (Appellant/Claimant) is married with Ruby but they are not having any issues.

9. The Appellant/Claimant has stated that initially the family was having a single storey Jhuggi No. B-96, Jailorwala Bagh, Ashok Vihar and his parents, Avadh Raj & Pramila Devi, along with the families of both of their sons; Ashish & Anup, were living jointly in the single storey Jhuggi. However, in the year 2019 the Jhuggi was converted into double storey structure and an iron ladder was placed outside in the gali and it is used for going to the upper floor and Ashish Rao along with his family had shifted to the first floor whereas his parents; Avadh Raj & Pramila, along with the family of the Appellant/Claimant continued to live on the ground floor of the said Jhuggi No. B-96. However, the fact remains that on the cutoff date of 01.01.2015 the Jhuggi No. B-96, Jailorwala Bagh, Ashok Vihar was a single storey structure.

10. The Appellant/Claimant has stated that his brother Ashish Rao along with his wife Manisha and all the three children is living on the first floor of the said Jhuggi No. B-96 and regarding that Manisha W/o Ashish had sought alternative allotment from DDA, but her claim has been rejected by the Eligibility Determination Committee. However, Manisha had not filed an Appeal against the Rejection Order before the Appellate Authority.

11. The Appellant/Claimant has stated that he along with his wife Ruby and both the parents; Avadh Raj & Pramila, is living on the ground floor of the said Jhuggi No. B-96. The Appellant/Claimant has sought alternative allotment from DDA against the ground floor of the said Jhuggi No. B-96 but his claim was rejected by Eligibility Determination Committee on the ground that he was found to be claiming allotment against the first floor and further his Voter ID Card could not be verified in spite of the fact that admittedly he has claimed allotment against the ground floor of the said double storey Jhuggi No. B-96 and further he is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 267 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with two video clips of Jhuggi No. B-96. As per survey records the survey was got conducted by the Appellant/Claimant of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant as well as

1.10.2024 1/10/2024 1/10/2024

the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography the present Appellant/Claimant, was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey records along with two video clips pertaining to the Jhuggi No. B-96. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 20.09.2024 wherein he has stated that the first video clip pertains to the ground floor of the Jhuggi No. B-96 in which the Appellant/Claimant is seen and getting the survey conducted and further, his room & kitchen are also seen and further, he is also heard thereby making a statement that the Jhuggi is a double storey structure and further, the roof is made with stone slates and further, he is seen holding a slate in his hand on which **"B-96 ANUP JAISWAL G+1"** is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. B-96 in which Manisha along wit her husband Ashish is seen and getting the survey conducted and further, an iron ladder placed outside in the gali and going to the first floor is also seen and her room & kitchen are also seen on the first floor and further, Manisha is seen holding a slate in her hand on which **"B-96 MANISHA FF"** is seen to have been written

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. B-96. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. B-96 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is living on the ground floor of the said double storey Jhuggi No. B-96 and is using the same for residential purposes whereas his brother Ashish along with his family is living on the first floor.

15. Accordingly, we have no hesitation in holding that the Jhuggi No. B-96 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and at that relevant time it was a single storey structure because the first floor was constructed in the year 2019 and further the Appellant/Claimant along with his family was & is still living on the ground floor of the said double storey Jhuggi No. B-96 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the ground floor of the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of

1.10.2024 1/10/2024

Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the double storey Jhuggi No. B-96 as per the policy guidelines issued by DDA.

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

18. 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

1.10.2024 1/10/2024

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

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

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

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

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

1.10.2024 1/10/2024 1/10/2024

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

1.10.2024 1/10/2024 1/10/2024

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

1.10.2024 1/10/2024 1/10/2024

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

29. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by

1.10.2024 1/10/2024 1/10/2024

the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

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

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

1.10.2024 1/10/2024 1/10/2024

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development**

1.10.2024 1/10/2024 1/10/2024

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

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

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

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor

1.10.2024 1/10/2024 1/10/2024

and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

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

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

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

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

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

41. It is pointed out that we have already held that the Jhuggi No. B-96 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and at that relevant time it was a single storey structure because the first floor was constructed in the year 2019 and further the Appellant/Claimant along with his family was & is still living on the ground floor of the said double storey Jhuggi No. B-96 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the ground floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

1.10.2024

1/10/2024

1/10/2024

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the Jhuggi No. B-96 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2167750 (Annexure-A) and Aadhar Card (Annexure-B) in support of his claim.

44. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 2167750 (Annexure-A) and it has been issued on 13.08.2015, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Further, his Aadhar Card (Annexure-B) is bearing No. 7304 0389 5889 and it has been issued on 23.09.2011.

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. B-96 regarding which he has been claiming allotment from DDA and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/Claimant has tendered the Voter ID Card No. JPF 0870071 (Annexure-C), Aadhar Card (Annexure-D) of his mother Pramila as well as Electricity Bill (Annexure-E), Passbook of HDFC Bank (Annexure-F), Gas Connection document (Annexure-G), Ration Card (Annexure-H) and Voter List of the year 2012 (Annexure-I) in support of his claim.

47. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. JPF 0870071 (Annexure-C) of his mother Pramila, which has been issued on 07.11.2005, much prior to the cutoff date of 01.01.2015. Furthermore, her name appears at Sl. No. 438 in the Voter List of the year 2012 (Annexure-I). Further, her Aadhar Card (Annexure-D) is bearing No. 4629 9323 8299 has been issued on 23.09.2011. The Electricity Bill (Annexure-E) shows that his mother Pramila had taken the electricity connection in the month of April, 2007. The Passbook of HDFC Bank (Annexure-F) shows that his mother Pramila had opened the account on

1.10.2024 1/10/2024 1/10/2024

11.08.2008 and the Gas Connection document (Annexure-G) shows that his mother Pramila had taken the gas connection on 20.10.2011. Furthermore, the Ration Card (Annexure-H) bearing No. 077004040343 has been issued in favour of his mother Pramila on 07.07.2014 and the name of the Appellant/Claimant is also mentioned therein. However, it is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. B-96, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. B-96, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents

1.10.2024

1/10/2024

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

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/82.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

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

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

Appeal No: 120 of 2024

Date of Institution: 13.07.2023

Date of Order: 03.10.2024

Present: Appellant/ Claimant Anju W/o Sanjay Kumar

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. G-31, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-31 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-205/002.1

3.10.2024 3/10/2024 3/10/2024

dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 120 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 25.09.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-31 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. G-31 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Anju Devi has been recorded before us on 25.09.2024, wherein she has stated that her in-laws, Ram Bali & Inraji Devi, are having two sons, Sanjay & Rajinder, and three daughters, Asha, Rekha & Amravati. Ram Bali & Inraji Devi are living at Jaunpur, Uttar Pradesh. All the children are married. Asha is married with Sikander and Rekha is married with Suresh and both of them are living in their respective matrimonial home in Uttar Pradesh. Amravati is married with Rampher and she is living in

3.10.2024 3/10/2024 2/11/2024

her matrimonial home in Chandigarh. Rajinder is married with Gita and having four children. Sanjay is married with Anju (Appellant/Claimant) and having two children, Saraswati & Aayush.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. G-31 and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that her brother-in-law, Rajinder along with his wife Gita and all the four children is living on the ground floor of the said Jhuggi No. G-31 and regarding that DDA has made allotment in favour Gita W/o Sanjay. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Sanjay and both the children Saraswati & Aayush, is living on the first floor of the said Jhuggi No. G-31, Jailorwala Bagh, Ashok Vihar. The Appellant/Claimant has sought allotment from DDA against the first floor of the said Jhuggi No. G-31 but her claim has been rejected by the Eligibility Determination Committee on the ground that she has been found to have claimed allotment from DDA against the upper floor in spite of the fact that she has admittedly claimed allotment from DDA against the first floor of the said Jhuggi No. G-31 and further, she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 120 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished survey records along with two video clips of Jhuggi No. G-31. As per survey records the survey was got conducted on the ground floor of Jhuggi No. G-31 by Geeta W/o Rajinder whereas on 18.04.2020 the survey was got conducted on the first floor of Jhuggi No. G-31 by the Appellant/Claimant and her photographs are also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

3.10.2024 3/10/2024 3/10/2024

13. DDA has furnished the survey records along with two video clips of Jhuggi No. G-31. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 25.09.2024 wherein the Appellant/Claimant has stated the first video clip pertains to the ground floor of the Jhuggi No. G-31 in which her sister-in-law Gita W/o Rajinder is seen getting the survey conducted and further, her room & kitchen are seen and she is also heard stating that they have been living here since one year. Further, Gita W/o Rajinder is seen holding a slate in her hand on which **"G-31 (N-207/632) GEETA DEVI G.F"** is seen to have been written. The second video clip pertains to the first floor of the said Jhuggi No. G-31 in which the Appellant/Claimant is seen standing in front of her room on the first floor of the Jhuggi No. G-31 and her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which **"G-31 ANJU F.F"** is seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. G-31. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. G-31 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the family of her brother-in-law, Rajinder & Gita, is living on the ground floor of the said double storey Jhuggi No. G-31 whereas the Appellant/Claimant along with her family is living on the first floor of the said double storey Jhuggi No. G-31 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. G-31 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. G-31 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. G-31 as per the policy guidelines issued by DDA.

3.10.2024 3/10/2024 3/10/2024

17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. G-31 in her favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-205/002.1 dated 01.07.2023.

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

> **"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.

3-10-2024 3/10/2024 3/10/2024

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."

3.10.2024 3/10/2024 3/10/2024

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

3.10.2024 Rawat 3/10/2024 3/10/2024

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

3.10.2024 3/10/2024 3/10/2024

they are claiming alternative allotment from DDA against the ground floor or upper floor.

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

3.10.2024 3/10/2024 3/10/2024

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

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

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

3.10.2024 3/10/2024 3/10/2024

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

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

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

3-10-2024 3/10/2024 3/10/2024

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

3-10-2024 3/10/2024 3/10/2024

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

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

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

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

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

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

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

42. It is pointed out that we have already held that the double storey Jhuggi No. G-31 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the

3.10.2024 Rawat 3/10/2024 3/10/2024

Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. G-31 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. G-31 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered her Voter ID Card No. WHC2139110 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

45. It is pointed out that Voter ID Card No. WHC 2139110 (Annexure-A) of the Appellant/Claimant has been issued on 23.01.2015, much after the cutoff date 01.01.2015 and 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) & also in the year of survey does not arise. Furthermore, the Aadhar Card No. 4156 2272 8890 (Annexure-B) of the Appellant/Claimant has been issued on 19.11.2013.

46. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. G-31 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The Appellant/Claimant has admitted that she was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. G-31 regarding which she is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. G-31, regarding which she is claiming allotment from DDA. Therefore, we have no hesitation

13.10.2024 Rawat 3/10/2024 3/10/2024

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

48. The Appellant/Claimant has tendered the Voter ID Card No. JPF0682567 (Annexure-E), Aadhar Card (Annexure-F) & PAN card (Annexure-G) of her husband Sanjay, the Passbook of Indian Overseas Bank (Annexure-C) and Gas Connection Card (Annexure-D) in support of her claim.

49. It is pointed out that the Voter ID Card No. JPF 0682567 (Annexure-E) of her husband Sanjay has been issued on 20.04.2009, much prior to the cutoff date 01.01.2015. But the Appellant/Claimant has not tendered any Voter List to show that her husband Sanjay had used this Voter ID Card No. JPF 0682567 (Annexure-E) to cast vote in any of the elections and more particularly in the years from 2012 to 2015. The Appellant/Claimant has tendered Aadhar Card No. 8400 5924 8382 (Annexure-F) of her husband Sanjay but the date of issuance is not mentioned in that document. The Passbook of Indian Overseas Bank (Annexure-C) shows that the Appellant/Claimant had opened the account on 25.08.2014. Furthermore, Gas Connection Card (Annexure-D) shows that the Appellant/Claimant had taken gas connection on 08.12.2017, much after the cutoff date 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. G-31 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

3.10.2024 3/10/2024 3/10/2024

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

51. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 issued on the first floor of Jhuggi No. G-31 regarding which she is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor AND further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. G-31 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

52. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-205/002.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

3.10.2024 Rawat 3/10/2024 3/10/2024

53. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 13.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

3.10.2024	3/10/2024	3/10/2024
(Ranbir Singh)	**(Satish Ahlawat)**	**(Rachna Tiwary)**
Jt. Secretary (Retd.) GOI	**Addl. District & Sessions Judge (Retd.)**	
MEMBER	**CHAIRMAN**	**EXPERT MEMBER**

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

Appeal No: 257 of 2024

Date of Institution: 16.05.2024

Date of Order: 03.10.2024

Present: Appellant/ Claimant Sarita Devi W/o Vikas Kumar

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-29, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-29 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

3.10.2024 3/10/2024 3/10/2024

Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-15/24.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 257 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 21.08.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-29 was found to exist but she had failed to submit required documents, i.e., Voter ID Card & separate Ration Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the Jhuggi No. A-29 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sarita has been recorded before us on 21.08.2024 wherein she has stated that her in-laws, Surender Parshad & Heera, are having two sons; Vinay Kumar & Vikas Kumar and two daughters; Vibha & Vinita. All the children are married. Vibha is married with Rupesh and she is living in her matrimonial home in Darbhanga, Bihar.

3.10.2024 3/10/2024 3/10/2024

Vinita is married with Shankar and she is living in her matrimonial home in Ashram, Delhi. Vinay Kumar is married with Nishu and having one son Nabh and they are living in Himachal Pradesh. Vikas Kumar is married with Sarita (Appellant/Claimant) and having two sons Rishabh & Ritik.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. A-29, Jailorwala Bagh, Ashok Bihar and it comprise of one room on each floor and a pucca staircase is constructed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that her in-laws, Surender Parshad & Heera, are living on the ground floor of the Jhuggi No. A-29 and regarding that, DDA has made allotment in favour of Heera. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Vikas Kumar and both the sons, Rishabh & Ritik, is living on the first floor of the said double storey Jhuggi No. A-29. The Appellant/Claimant has sought allotment from DDA against the first floor of the said double storey Jhuggi No. A-29 but her claim has been rejected by Eligibility Determination Committee on the ground that she has been found to have been claiming allotment against the upper floor in spite of the fact that she has admittedly claimed allotment against the first floor of the double storey Jhuggi No. A-29 and further, she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 257 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. DDA has furnished survey records along with two video clips of Jhuggi No. No. A-29. As per survey records the survey was got conducted on 17.03.2020 by the Appellant/Claimant of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography the present Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished survey record along with two video clips pertaining to the Jhuggi No. A-29. The videos were played before the Appellant/Claimant when her statement was recorded before us on 21.08.2024 wherein she has stated that the first video clip pertains to

3.10.2024 3/10/2024 3/10/2024

the ground floor of the double storey Jhuggi No. A-29 in which the Jhuggi is clearly seen from outside to be a pucca double storey structure and further, her father-in-law, Surender Parshad, is seen and getting the survey conducted on behalf of his wife Heera on the ground floor of the Jhuggi No. A-29 and her room & kitchen are seen and further, he is seen holding a slate in his hand on which **"A-29 HEERA DEVI G.F"** is clearly seen to have been written. The second video pertains to the first floor of the Jhuggi No. A-29, in which a pucca staircase going from the ground floor to the upper floor is seen and further, the Appellant/Claimant is seen and getting the survey conducted on the first floor and her room & kitchen and roof made with asbestos sheet is also seen and further, she is seen holding a slate in her hand on which **"A-29 SARITA DEVI F.F"** is seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. A-29. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. A-29 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and her in-laws, Surender Parshad & Heera, are living on the ground floor of the said double storey Jhuggi No. A-29 whereas the Appellant/Claimant along with her family is living on the first floor of the said double storey Jhuggi No. A-29 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. A-29 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. A-29 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-29 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The

3.10.2024 3/10/2024 3/10/2024

Appellant/ Claimant has tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. A-29 in her favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-15/24.G dated 01.07.2023.

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

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

3.10.2024 3/10/2024 3/10/2024

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."

20. It is mandated that there is verification in terms of biometric authentication via Aadhar card

3.10.2024 3/10/2024 3/10/2024

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

3.10.2024 3/10/2024 3/10/2024

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

27. It is not out of context to point out that this Appellate Authority had decided the Appeals

3.10.2024 3/10/2024 3/10/2024

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

3/10/2024 3/10/2024 3/10/2024

Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

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

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

32. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions

3.10.2024 3/10/2024 3/10/2024

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

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

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

3.10.2024

3/10/2024

3/10/2024

01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

3.10.2024 3/10/2024 3/10/2024

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

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

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

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

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

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

42. It is pointed out that we have already held that the double storey Jhuggi No. A-29 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the said double storey Jhuggi No. A-29 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the

3.10.2024 3/10/2024 3/10/2024

said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. A-29 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2158623 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

45. It is pointed out that the Voter ID Card No. WHC 2158623 of the Appellant/Claimant has been issued on 13.05.2015, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. The Aadhar Card (Annexure-B) is bearing No. 3573 4970 5453 but the date of issuance is not mentioned therein. The Appellant/Claimant has specifically stated that she was married with Vikas Kumar in the year 2015 and accordingly, she does not have any document issued on the address of the Jhuggi No. A-29, Jailorwala Bagh prior to the cutoff date of 01.01.2015.

46. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-29 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The Appellant/Claimant has categorically stated that neither she nor her husband Vikas Kumar was having a separate Ration Card issued on the address of the first floor of the Jhuggi No. A-29, regarding which she is claiming allotment from DDA. However, the Appellant/Claimant has tendered the photograph (Annexure-H) of Joint Ration Card bearing number 077004040433 which has been issued in favour of her mother-in-law Heera on 16.06.2014. But the original has not been placed on file by the Appellant/Claimant. The

3.10.2024 3/10/2024 3/10/2024

Appellant/Claimant has stated that the original Ration Card was tendered by her to the survey team at the time of survey and its photograph (Annexure-H) was taken by the survey team at the time of survey and the same is annexed with the survey records. However, the Photograph (Annexure-H) shows that the Appellant/Claimant is having a joint Ration Card which has been issued in favour of her mother-in-law Heera. The Appellant/Claimant has categorically admitted that neither she nor her husband Vikas Kumar was having a separate Ration Card issued on the address of the first floor of the Jhuggi No. A-29, regarding which she is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. A-29, 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.

48. The Appellant/Claimant has tendered the Voter ID Card No. WHC 1832293 (Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F) of her husband Vikas Kumar and Passbook of Bank of Baroda (Annexure-G) in support of her claim.

49. It is pointed out that the Voter ID Card bearing No. WHC 1832293 (Annexure-D) of her husband Vikas Kumar has been issued on 08.10.2012, much prior to the cutoff date of 01.01.2015. Furthermore, the Aadhar Card (Annexure-E) of her husband Vikas is bearing No. 8791 5441 5919 but the date of issuance is not mentioned in this document. Further, the Appellant/Claimant has not tendered any Voter List to show that her husband had used his Voter ID Card to cast vote in any of the election and more particularly in the years from 2012 to 2015. The Passbook of Bank of Baroda (Annexure-G) shows that her husband Vikas had opened the account on 25.08.2014, much prior to the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. A-29 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

3.10.2024 3/10/2024 3/10/2024

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

51. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/ Claimant was not having a separate Ration Card on the cut-off date of 01.01.2015 issued on the first floor of Jhuggi No. A-29 regarding which she is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor AND further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-29 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-H, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

3.10.2024 3/10/2024 3/10/2024

52. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-15/24.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

53. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 16.05.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

3.10.2024 3/10/2024 3/10/2024

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

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

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

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

Appeal No: 263 of 2024

Date of Institution: 16.05.2023

Date of Order: 04.10.2024

Present: Appellant/ Claimant Esraji Devi W/o Pattu Ram

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-221 (N-207/332) Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-221 (N-207/332) 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

4.10.2024 S Mawat 4/10/2024 4/10/2024

allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/22 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 263 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 27.09.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-L, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-221 (N-207/332) was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not *Verified / Upper Floor*"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. H-221 (N-207/332) as per the policy guidelines issued by DDA.

8. The statement of Jitendra, who is son of the Appellant/Claimant Esraji Devi has been recorded before us on 27.09.2024 wherein he has stated that his mother is paralyzed and nowadays she is living in Azamgarh, Uttar Pradesh and to corroborate the same, he has

4.10.2024 S/Rawat 4/10/2024 4/10/2024

tendered her Medical Documents (Annexure-B), and accordingly, she is not in a position to come and appear before us to make statement, therefore, he has appeared before us to make statement on her behalf in support of her claim.

9. Jitendra has stated that his parents, Pattu Saroj & Esraji Devi (Appellant/Claimant), are having four children; Dharmendra, Jitendra, Khushbu & Saroja. His father Pattu Saroj had expired on 14.07.2010 and his Death Certificate is Annexure-H. All the children are married. Khushbu is married with Dimple Saroj and Saroja is married with Vinod and both of them are living in their respective matrimonial homes in Azamgarh, Uttar Pradesh. Dharmendra is married with Laxmi and having one child and they are also living in their native village in Azamgarh, Uttar Pradesh. Jitendra is married with Seema and having three children; Suraj, Neeraj & Dheeraj.

10. Jitendra has stated that he along with his family is living jointly with her parents; Pattu Saroj (until his death on 14.07.2010) & Esraji Devi, in the single storey Jhuggi bearing No. H- 221 (N 207/332) and it comprises of one room.

11. Jitendra has stated that his mother Esraji Devi (Appellant/Claimant) has sought allotment from DDA against the said single storey Jhuggi No. H- 221 (N 207/332) but her claim has been rejected by the Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly claimed allotment against the said single storey Jhuggi No. H- 221 (N 207/332) and further, she is having all the requisite documents as per the policy guidelines issued by DDA accordingly, aggrieved by the same, she has filed the present Appeal No. 263 of 2024 before the Appellate Authority for redressal. Jitendra has also tendered documents, Annexure-A to Annexure-L, in support of the claim of his mother Esraji (Appellant/Claimant) and prayed that DDA be directed to make allotment in favour of his mother.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. H-221 (N 207/332). The video was played before Jitendra when his statement was recorded before us on 27.09.2024 wherein he has stated that the video clip pertains to the Jhuggi No. H- 221 (N 207/332) in which a pucca single storey Jhuggi from outside is seen and further, the Appellant/Claimant Esraji Devi is seen and getting the survey conducted and her room/kitchen are also seen and further, she is also seen holding a slate in his hand on which **"H.221 ESRAJI DEVI (NOT IN LIST) G.F."** is seen to have been written.

4.10.2024 4/10/2024 4/10/2024

13. There is nothing to disbelieve the statement of Jitender made on behalf of his mother Esarji (Appellant/Claimant) on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. H-221 (N-207/332). Thus the statement of Jitender as well as the survey records has duly proved that the single storey Jhuggi No. H-221 (N-207/332) was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. H-221 (N-207/332) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. H-221 (N-207/332) 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-L, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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

4.10.2024 4/10/2024 4/10/2024

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.

4.10.2024 4/10/2024 4/10/2024

- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

4.10.2024 4/10/2024 4/10/2024

the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

4.10.2024 Rawat 4/10/2024 4/10/2024

cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the

4.10.2024 S/Rawat 4/10/2024 4/10/2024

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

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

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

4.10.2024 Rawat 4/10/2024 4/10/2024

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

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

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

4.10.2024 4/10/2024 4/10/2024

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

4.10.2024 Jhawat 4/10/2024 4/10/2024

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

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

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

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

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

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

4.10.2024 4/10/2024 4/10/2024

the cutoff date of 01.01.2015.

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

40. It is pointed out that we have already held that the single storey Jhuggi No. H-221 (N-207/332) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. H-221 (N-207/332) as per the policy guidelines issued by DDA.

42. Jitendra, who is the son of Esarji (Appellant/Claimant), has tendered the Aadhar Card (Annexure-A) of the Appellant/Claimant in support of her claim.

43. It is pointed out that the Aadhar Card bearing No. 8820 1210 4026 (Annexure-A) of the Appellant/Claimant Esraji has been issued on the address of the Jhuggi No. H-221 but the date of issuance is not mentioned in this document. Furthermore, Jitendra has categorically stated that his mother Esraji was not having any Voter ID Card issued on the address of the Jhuggi No. H-221 regarding which she has claimed allotment from DDA and accordingly, the question of her name arising in any of the Voter Lists of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant Esarji was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-221 (N-207/332), Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/

4.10.2024 4/10/2024 4/10/2024

/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. Jitendra, who is the son of Esarji (Appellant/Claimant), has also tendered the Voter ID Card No. JPF 0695353 (Annexure-C) of his father Pattu Saroj, Electricity Bill (Annexure-D), three Ration Cards (Annexure-E to Annexure-G), Voter List of the year 2012 (Annexure-I), Voter ID Card No. WHC 3661618 (Annexure-J) & Aadhar Card (Annexure-K) of Jitendra and Population Register (Annexure-L) in support of the claim of the Appellant/Claimant.

46. It is pointed out that the Voter ID Card No. JPF 0695353 (Annexure-C) of Pattu Ram, who is the husband of the Appellant/Claimant, has been issued on 14.06.2002, much prior to the cutoff date of 01.01.2015 and further, the name of Pattu Ram also appears at Sl. No. 535 in the Voter List of the year 2012 (Annexure-I). Furthermore, the Electricity Bill (Annexure-D) shows that the electricity connection has been taken by her husband Pattu Ram on 07.03.2009, much prior to the cutoff date of 01.01.2015. Further, three Ration Cards (Annexure-E to Annexure-G) have been tendered by the Appellant/Claimant. The first Ration Card is bearing No. BPL 53160189 (Annexure-E) and it has been issued in favour of her husband Pattu and the name of the Appellant/Claimant and other family members have been mentioned therein but the date of issuance is not mentioned. The second Ration Card is bearing No. BPL 53160175 (Annexure-F) and it has been issued in favour of her husband Pattu on 05.09.2009 and the name of the Appellant/Claimant and other family members has been mentioned. The third Ration Card (Annexure-G) is bearing No. 077002569102 and it has been issued in favour of the Appellant/Claimant but the date of issuance is not mentioned and further, the name of other family members has been conspicuously missing. Furthermore, the Voter ID Card No. WHC 3661618 of her son Jitendra has been issued on 02.06.2023, much after the cutoff date of 01.01.2015. Further, the Aadhar Card No. 8805 4459 3749 of Jitendra (Annexure-K) has also been tendered but the date of issuance is not mentioned therein. The Population Register (Annexure-L) shows that the name of the Appellant/Claimant was mentioned on 22.04.2013 against address No. H-221, Jailor Wala Bagh, Ashok Vihar. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-221 (N-207/332) regarding which the Appellant/Claimant is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012,

4.10.2024 4/10/2024 4/10/2024

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

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

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.H-221 (N-207/332) Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-L, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

4.10.2024 4/10/2024 4/10/2024

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/22 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

4.10.2024 4/10/2024 4/10/2024

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

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

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

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

Appeal No: 215 of 2024

Date of Institution: 24.07.2023

Date of Order: 04.10.2024

Present: Appellant/ Claimant Ramu S/o Bahadur

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. C-11, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-11 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-74/006.G dated 01.07.2023 to the present

4.10.2024 4/10/2024 4/10/2024

Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 215 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 26.06.2024 & 27.08.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-R, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-11 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. C-11 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ramu has been recorded before us on 26.06.2024 & 27.08.2024 wherein he has stated that his parents, Bahadur & Ilaichi Devi, are having one son; Ramu (Appellant/Claimant) and one daughter; Meela Devi. Bahadur has expired in the year 2002 and Ilaichi Devi has expired in the year 2008. Both the children are married. Meela

4.10.2024 4/10/2024 4/10/2024

Devi is married with Motilal and she is living in her matrimonial home in Daya Basti, Delhi. Ramu (Appellant/Claimant) is married with Pooja and having two children; Yuvraj & Yuvika.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. C-11 in Jailorwala Bagh, Ashok Vihar and it comprise of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that he along with his wife Pooja and both the children Yuvraj & Yuvika is living in the said Jhuggi No. C-11. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. C-11 but his claim has been rejected by Eligibility Determination Committee on the ground that he was found to be claiming allotment against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has claimed against the double storey Jhuggi No. C-11 and further he has all the requisite documents as per the policy/guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 215 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-R, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. C-11. As per survey records the survey was got conducted on 17.03.2020 by the Appellant/Claimant of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography the present Appellant/Claimant, was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished survey record along with one video clip. The video was played before the Appellant/Claimant when his statement was recorded before us on 26.06.2024 wherein he has stated that the video clip pertains to the Jhuggi No. C-11 in which the Jhuggi No. C-11 is clearly seen from outside to be a double storey pucca structure and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is also seen holding a slate in his hand on which **"C-11 RAMU G+1"** is seen to have been written.

4.10.2024 4/10/2024 4/10/2024

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. C-11. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. C-11 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is living in the said double storey Jhuggi No. C-11 and is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. C-11 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living in the said double storey Jhuggi No. C-11 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & 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 said double storey Jhuggi No. C-11 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-R, in support of his claim and prayed that DDA be directed to make allotment against the said double storey Jhuggi No. C-11 in his favour.

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

4.10.2024 4/10/2024 4/10/2024

Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-74/006.G dated 01.07.2023.

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

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

4-10-2024

4/10/2024

4/10/2024

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

4.10.2024 4/10/2024 4/10/2024

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

4-10-2024 4/10/2024 4/10/2024

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

4.10.2024 4/10/2024 4/10/2024

in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

4.10.2024 4/10/2024 4/10/2024

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

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

4.10.2024 4/10/2024 4/10/2024

petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

4.10.2024 S Rawat 4/10/2024 4/10/2024

(1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

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

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

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

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

4.10.2024 4/10/2024 4/10/2024

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

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

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

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

41. It is pointed out that we have already held that the double storey Jhuggi No. C-11 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living in the said double storey Jhuggi No. C-11 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. C-11 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A, Annexure-B & Annexure-O), Aadhar Card (Annexure-C), Letter No. F. No. AERO/AC-17/2024/161 dated 01.05.2024 (Annexure-D) issued by AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-E), Voter List of the year 2013 (Annexure-F), Voter List of the year 2014

4.10.2024 4/10/2024 4/10/2024

(Annexure-G), Voter List of the year 2015 (Annexure-H), Voter List of the year 2016 (Annexure-I), Voter List of the year 2017 (Annexure-J), Voter List of the year 2018 (Annexure-K), Voter List of the year 2019 (Annexure-L), Voter List of the year 2020 (Annexure-M), Voter List of the year 2022 (Annexure-N) and Letter No. F. No. AERO/AC-17/2024/227 dated 06.08.2024 (Annexure-R) issued by AERO, AC-17, Wazirpur in support of his claim.

44. It is pointed out that the Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A, Annexure-B & Annexure-O). It is pointed out that all the three Voter ID Cards (Annexure-A, Annexure-B & Annexure-O) are bearing the same number i.e. NCR 1443209 but have been issued on different addresses.

45. The first Voter ID Card is bearing number NCR 1443209 (Annexure-A) and it has been issued on 20.04.2009, much prior to the cutoff date of 01.01.2015 on the address of T-116, T-Huts, Railway Crossing, Chowky No. 4, Delhi and not on the address of the Jhuggi No. C-11, Jailorwala Bagh, Ashok Vihar regarding which he is claiming allotment from DDA and accordingly, this is not a relevant document to determine the eligibility of the Appellant/Claimant.

46. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 995 in the Voter List of the year 2012 (Annexure-E), at Sl. No. 995 in the Voter List of the year 2013 (Annexure-F), at Sl. No. 1139 in the Voter List of the year 2014 (Annexure-G) & at Sl. No. 1223 in the Voter List of the year 2015 (Annexure-H). Furthermore, it is pointed out that in all these Voter Lists (Annexure-E to Annexure-H), the address of the Appellant/Claimant is mentioned to be T-116, T-Huts, Railway Crossing, Chowky No. 4, Delhi and not on the Jhuggi No. C-11, Jailorwala Bagh, regarding which he is claiming allotment from DDA and accordingly, all these documents are not relevant to determine the eligibility of the Appellant/Claimant.

47. Moreover, it also pointed out at the very outset that the Appellant/Claimant has categorically stated that he along with his wife Pooja and both the children Yuvraj & Yuvika is living in the said Jhuggi No. C-11, Jailorwala Bagh, regarding which he is claiming allotment from DDA but he has not tendered the Voter ID Card & Aadhar Card of his wife Pooja and also the Aadhar Cards etc. of both of his children Yuvraj & Yuvika to corroborate that he was living in Jhuggi No. C-11, Jailorwala Bagh with his family. It seems that like the documents (Annexure-A and Annexure-E to Annexure-H) of the Appellant/Claimant his family members might be having their documents issued on the address of T-116, T-Huts, Railway Crossing, Chowky No. 4, Delhi and not on the Jhuggi No. C-11, Jailorwala Bagh, regarding which he is

4-10-2024 4/10/2024 4/10/2024

claiming allotment from DDA and that is why he has not tendered the documents pertaining to his wife Pooja and the children Yuvraj & Yuvika. The material placed on file shows that neither the Appellant/Claimant nor his wife Pooja was having a valid Voter ID Card issued on the cutoff date of 01.01.2015 on the address of the Jhuggi No. C-11, regarding which he is claiming allotment from DDA and further their names also do not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. This further creates doubt & suspicion.

48. It is pointed out that the second and the third Voter ID Cards (Annexure-B & Annexure-O) are bearing the same number i.e. NCR 1443209. The second Voter ID Card (Annexure-B) has been issued on 21.03.2014 whereas the third Voter ID Card (Annexure-O) has been issued on 02.05.2015 and further, both the Voter ID Cards (Annexure-B & Annexure-O) have been issued on the address of the Jhuggi No. C-11, regarding which the Appellant/Claimant has been claiming allotment from DDA. But the Appellant/Claimant has failed to explain as to why the third Voter ID Card (Annexure-O) was got issued on 02.05.2015 when the Appellant/Claimant was already having the second Voter ID Card (Annexure-B) issued on the same address i.e. Jhuggi No. C-11, Jailorwala Bagh and this creates doubt & suspicion.

Furthermore, it is also not out of context to point out that the Letter No. F. No. AERO/AC-17/2024/161 dated 01.05.2024 (Annexure-D) issued by AERO, AC-17, Wazirpur & Letter No. F. No. AERO/AC-17/2024/227 dated 06.08.2024 (Annexure-R) issued by AERO, AC-17, Wazirpur show that the name of the Appellant/Claimant does not exist in the records of the Election Commission pertaining to the years 2012 to 2015 on the address of the Jhuggi No. C-11, regarding which the Appellant/Claimant has been claiming allotment from DDA.

49. As already pointed out above, the Letter No. F. No. AERO/AC-17/2024/161 dated 01.05.2024 (Annexure-D) issued by AERO, AC-17, Wazirpur & Letter No. F. No. AERO/AC-17/2024/227 dated 06.08.2024 (Annexure-R) issued by AERO, AC-17, Wazirpur show that the name of the Appellant/Claimant does not exist in the records of the Election Commission pertaining to the years 2012 to 2015. However, his name appears in the Voter List of the years 2016 to 2022.

Furthermore, it is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 553 in the Voter List of the year 2016 (Annexure-I), at Sl. No. 579 in the Voter List of the year 2017 (Annexure-J), at Sl. No. 509 in the Voter List of the year 2018 (Annexure-K), at Sl. No. 612 in the Voter List of the year 2019 (Annexure-L), at Sl. No. 655 in the Voter List of the

4.10.2024 4/10/2024 4/10/2024

year 2020 (Annexure-M) & at Sl. No. 689 in the Voter List of the year 2022 (Annexure-N) and in all these Voter ID Lists pertaining to the years 2016 to 2022 (Annexure-I to Annexure-N), the number of the Voter ID Card of the Appellant/Claimant has been mentioned to be NCR 1443209. Further, in all the above referred documents (Annexure-B, Annexure-O & Annexure-I to Annexure-N) the address of the Appellant/Claimant has been mentioned to be Jhuggi No. C-11, regarding which he is claiming allotment from DDA. But the fact remains that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-11 regarding which he has been claiming allotment from DDA and further his name also does not appear in the Voter List of the years 2012 to 2015 thereby reflecting his address of Jhuggi No. C-11, Jailorwala Bagh, Ashok Vihar.

50. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. C-11 regarding which he has been claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

51. The Appellant/Claimant has also tendered the Passbook of Canara Bank (Annexure-P) and Electricity Bill (Annexure-Q) in support of his claim.

52. It is pointed out that the Passbook of Canara Bank (Annexure-P) shows that the Appellant/Claimant has opened the account on 24.05.2012 and the Electricity Bill (Annexure-Q) shows that the Appellant/Claimant has taken the electricity connection on 18.03.2009. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. C-11, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

4.10.2024 4/10/2024 4/10/2024

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

54. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. C-11, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-R, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

55. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-74/006.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

4.10.2024

4/10/2024

4/10/2024

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

4.10.2024 4/10/2024 4/10/2024

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

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

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

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

Appeal No: 180 of 2024

Date of Institution: 18.07.2023

Date of Order: 07.10.2024

Present: Appellant/ Claimant Rajender Yadav S/o Ramdhar Yadav

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. A-24, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. A-24 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

7.10.2024 7/10/2024 7/10/2024

Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/140 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 180 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 03.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-24 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. A-24 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Rajender Yadav has been recorded before us on

7.10.2024 7/10/2024 7/10/2024

03.10.2024 wherein he has stated that he is married with Rinku and having two daughters; Munni Kumari & Nisha Kumari. Nisha Kumari is unmarried. Munni Kumari is married with Virender and she is living in her matrimonial home in Azamgarh, Uttar Pradesh.

9. The Appellant/Claimant has stated that previously he along with his family was living on rent in the Jhuggi No. N-9A/485 Lal Bagh, Adarsh Nagar, Delhi. Afterward, he had purchased the Jhuggi No. A-24, Jailorwala Bagh in the year 2019 for a sale consideration of Rs. 1.5 Lakh from one Balkaran and the address on his documents were also got subsequently changed by him to the address of the said new Jhuggi. The Jhuggi No. A-24, is a double storey structure and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that he along with his wife Rinku and the unmarried daughter Nisha Kumari, had started living in the said double storey Jhuggi No. A-24 after purchasing the same in the year 2019. The Appellant/Claimant has sought alternative allotment from DDA against the said Jhuggi No. A-24 but his claim was rejected by Eligibility Determination Committee on the ground that he was found to be claiming allotment against the first floor and further his Voter ID Card could not be verified in spite of the fact that admittedly he has claimed allotment against the said double storey Jhuggi No. A-24 and further he is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 180 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey record along with one video clips pertaining to the Jhuggi No. A-24. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 03.10.2024 wherein he has stated that the video clip pertains to the Jhuggi No. A-24 in which the Appellant/Claimant is seen and getting the survey conducted on the ground floor of the said Jhuggi No. A-24 and an iron ladder is also seen going to the upper floor and further, the room/ kitchen on the ground floor is also seen and further, he is seen holding a slate in his hand on which **"A-24 Rajender Yadav G+1"** is seen to have been written.

7.10.2024 7/10/2024 7/10/2024

12. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that previously he along with his family was living on rent in the Jhuggi No. N-9A/485 Lal Bagh, Adarsh Nagar, Delhi. Furthermore, the Appellant/Claimant has stated that afterword he had purchased the Jhuggi No. A-24, Jailorwala Bagh for a sale consideration of Rs. 1.5 Lakh from one Balkaran in the year 2019 and the address on his documents were also got subsequently changed by him to the address of the said new Jhuggi. This fact is corroborated by the fact that the Aadhar Card No. 5621 1201 8191 (Annexure-E) of his wife Rinku has been issued on the address of Jhuggi No. N-9A/485 Lal Bagh, Adarsh Nagar, Delhi, where he was living on rent prior to purchasing the Jhuggi No. A-24, Jailorwala Bagh but the address on this documents remain unchanged. The Appellant/Claimant has not stated the date & month of purchase but simply stated that it was purchased in the year 2019 and further he had not given other details with regard to the name of his parents & address etc. of the vendor but he has simply stated that the name of the vendor was Balkaran and also that he does not know the name of his father. No sale deed or receipt for having paid the sale consideration of Rs. 1.5 Lakh are placed on file. However, the fact remains that the Appellant/Claimant was not living in the Jhuggi No. A-24 on the cutoff date of 01.01.2015 because the Appellant/Claimant has specifically stated that he along with his wife Rinku and the unmarried daughter Nisha Kumari, had started living in the said double storey Jhuggi No. A-24 after purchasing the same in the year 2019.

13. Thus the vendor was Balkaran was living in the Jhuggi No. A-24 on the cutoff date of 01.01.2015 but he has not sought alternative allotment from DDA against the said Jhuggi. However, the present Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. A-24 inspite of the fact that he was admittedly not living in the Jhuggi No. A-24 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2019, therefore, the Appellant/Claimant is not eligible to claim alternative allotment from DDA against the said double storey Jhuggi No. A-24.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. A-24 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Balkaran was living there but he has not sought allotment from DDA against the said double storey Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said double storey Jhuggi No. A-24 inspite of the fact that he was admittedly not

7-10-2024 7/10/2024

living in the Jhuggi No. A-24 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2019, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said double storey Jhuggi No. A-24 as per the policy guidelines issued by DDA.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. A-24 as per the policy guidelines issued by DDA.

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

17. 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

7.10.2024 7/10/2024 7/10/2024

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

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

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

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

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

7.10.2024 7/10/2024

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

7.10.2024 7/10/2024 7/10/2024

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to

7.10.2024 7/10/2024 7/10/24

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

7.10.2024 7/10/2024 7/10/2024

as a document of identity or proof of residence.

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

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

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions

7.10.2024 7/10/2024 7/10/2024

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

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

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

7.10.2024 7/10/2024 7/10/2024

01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

7.10.2024 7/10/2024 7/10/2024

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

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

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

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

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

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

40. It is pointed out that we have already held that the vendor was Balkaran was living in the Jhuggi No. A-24 on the cutoff date of 01.01.2015 but he has not sought alternative allotment from DDA against the said Jhuggi. However, the present Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. A-24 inspite of the fact that

7.10.2024 7/10/2024

he was admittedly not living in the Jhuggi No. A-24 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2019, therefore, the Appellant/Claimant is not eligible to claim alternative allotment from DDA against the said double storey Jhuggi No. A-24. But despite that the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double stroey Jhuggi No. A-24 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3556370 (Annexure-A) and Aadhar Card (Annexure-B) in support of his claim.

43. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 3556370 (Annexure-A) and it has been issued on 23.11.2020, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any of the Voter Lists of the year 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. Further, his Aadhar Card (Annexure-B) is bearing No. 3589 0260 8191 and it has been issued on 29.10.2011 on the address of the Jhuggi No. A-24, Jailorwala Bagh. The Appellant/Claimant has stated that previously this Aadhar Card was issued on his last address i.e. Jhuggi No. N-9A/485 Lal Bagh, Adarsh Nagar, Delhi, where he was living on rent but after purchasing the Jhuggi No. A-24, Jailorwala Bagh in the year 2019, he had got the address changed in his Aadhar Card but in his Aadhar Card (Annexure-B) the original date of issuance has been mentioned to be 29.10.2011 even though he has got his address changed from Adarsh Nagar to Jailorwala Bagh in the year 2019.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. A-24

7.10.2024 7/10/2024 7/10/2024

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

45. The Appellant/Claimant has tendered the Electricity Bill (Annexure-C), Passbook of PNB (Annexure-D), Aadhar Card No. 5621 1201 8191 (Annexure-E) of his wife Rinku as well as Application for issuance of PAN Card (Annexure-F) in support of his claim.

46. It is pointed out that the Electricity Bill (Annexure-C) shows that the Appellant/Claimant had taken the electricity connection on 04.08.2017. The Appellant/Claimant has stated that previously the electricity connection was taken on his last address i.e. Jhuggi No. N-9A/485 Lal Bagh, Adarsh Nagar, Delhi, where he was living on rent but after purchasing the Jhuggi No. A-24 in Jailorwala Bagh, he had got his name incorporated in the Electricity bill but still the original date of Energisation of the connection has been mentioned to be 04.08.2017 even though he has got name changed in the records after 2019. Further, the Passbook of PNB (Annexure-D) shows that the Appellant/Claimant had opened the account on 13.07.2023, much after the cutoff date of 01.01.2015. The Aadhar Card No. 5621 1201 8191 (Annexure-E) of his wife Rinku has been issued on 20.01.2023 on the address of Jhuggi No. N-9A/485 Lal Bagh, Adarsh Nagar, Delhi, where he was living on rent prior to purchasing the Jhuggi No. A-24, Jailorwala Bagh. Further, the application of issuance of PAN Card (Annexure-F) has been filed by his wife on 17.07.2023, much after the cutoff date of 01.01.2015. However, it is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-24, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

7.10.2024 7/10/2024

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

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-24, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/140 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

7.10.2024 7/10/2024 7/10/2024

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

7.10.2024 7/10/2024 7/10/2024

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

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

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

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

Appeal No:136 of 2024

Date of Institution: 14.07.2023

Date of Order: 07.10.2024

Present: Appellant/ Claimant Nirmala Devi W/o Karam Das

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. F-348, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-348 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-63/39.G dated 01.07.2023 to

7.10.2024 7/10/2024 7/10/2024

the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 136 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 16.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z and Annexure-Z-1 to and Annexure-Z-7, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. F-348 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z-6) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

7.10.2024 7/10/2024 7/10/2024

whether she is entitled to claim allotment against the Jhuggi No. F-348 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Nirmala Devi has been recorded before us on 16.05.2024 wherein she has stated that she is married with Karam Das and having three children; Raju, Rajni & Rinku. Raju is married with Vandana and having one son Punit. Rajni is married with Gulshan and they are living in Jailorwala Bagh with her parents. Rinku is married with Ganga Ram and she is living in her matrimonial home in Pratapgarh, Uttar Pradesh.

9. The Appellant/Claimant has stated that she is having a triple storey Jhuggi No. F-348, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder has been placed outside in the gali and it is used for going to the first floor and then to the second floor.

10. The Appellant/Claimant has stated that her daughter Rajni along with her husband Gulshan is living on the first floor of the Jhuggi No. F-348, Jailorwala Bagh, Ashok Vihar and regarding that, Rajni has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee but she has preferred not to file an Appeal before the Appellate Authority because she is not having all the requisite documents.

11. The Appellant/Claimant has stated that she along with her husband Karam Das as well as the family of her son Raju is living on the ground & the second floor of the Jhuggi No. H-378 and regarding both the floors, the Appellant/Claimant has sought allotment from DDA but her claim is rejected by Eligibility Determination Committee on the ground that she is found to have claimed allotment against the upper floor and further her Voter Card could not be verified in spite of the fact that she is admittedly claiming allotment from DDA against the ground & the second floor of the Jhuggi No. F-348 where she is living jointly and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 136 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z and Annexure-Z-1 to Annexure-Z-7, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024 wherein he has stated that the

7.10.2024 7/10/2024

Appellant/Claimant Nirmala Devi has sought alternative allotment form DDA against the Jhuggi No. F-348, Jailorwala Bagh but her claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further she has been found to have claimed allotment against the upper floor. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z-6) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified/upper floor"**. Aggrieved by the same, the Appeal No. 136 of 2024 has been filed by the present Appellant/ Claimant. Therefore, it is prayed that this Appellate Authority should take holistic view and legality of all the grounds be thoroughly considered to independently determine the eligibility of the Appellant/ Claimant as per the policy guidelines issued by DDA.

13. DDA has furnished survey records along with one video clip of Jhuggi No. F-348. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-348 on 07.03.2021 on the ground floor of the said Jhuggi and her photograph (Annexure-Z-5) is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

14. DDA has furnished survey record along with one video clip. The video was played before the Appellant/Claimant when her statement was recorded before us on 16.05.2024 wherein she has stated that the video clip pertains to the Jhuggi No. F-348 in which Jhuggi No. F-348 is clearly seen from outside to be a triple storey pucca structure and further, the Appellant/Claimant Nirmala Devi is seen and getting the survey conducted and further, her room & kitchen on the ground floor is also seen and further, she is also heard stating that her Jhuggi is a triple storey structure and her daughter has got the survey conducted against the upper floor and further, she is seen holding a slate in his hand on which **"F-348 NIRMALA DEVI G.F"** is clearly seen to have been written.

15. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi F-348, which were prepared by the survey team of DDA and also played before him when his statement was recorded before us on 30.09.2024 wherein he has stated that from outside the said Jhuggi No. F-348 is clearly seen to be a triple storey pucca structure and further, the

7.10.2024 7/10/2024 7/10/2024

Appellant/Claimant Nirmala Devi is seen and getting the survey conducted and further, her room & kitchen on the ground floor is also seen and further, she is also heard stating that her Jhuggi is a triple storey and her daughter has got the survey conducted against the upper floor and further, she is seen holding a slate in his hand on which **"F-348 NIRMALA DEVI G.F"** is clearly seen to have been written.

16. The statement of the Appellant/Claimant as well as his photograph (Annexure-Z-5) taken by the survey team at the time of survey and the video clip prepared by the survey team of DDA clearly shows that the family of the Appellant/Claimant is living on the ground & second floor of triple storey Jhuggi No. F-348 and further both the floors are single dwelling unit. Furthermore, Rajni, who is the daughter of the present Appellant/Claimant Nirmala Devi had also sought allotment from DDA against the first floor of the said Jhuggi No. F-348 but her claim has been rejected by Eligibility Determination Committee but she has preferred not to file an Appeal before the Appellate Authority because she is not having all the requisite documents. Whereas the Appellant/Claimant along with her family is living on the ground & second floor of triple storey Jhuggi No. F-348 and further both the floors are single dwelling unit and the same has been used by her for residential purposes but his claim has been rejected BY EDC on the grounds that she was not having requisite documents but the existence of the Jhuggi of the Appellant/Claimant is not disputed.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 19.02.2024

17. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

18. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 19.02.2024 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-20/0038.G dated 01.07.2023 (Annexure-Z-6) to the present Appellant/Claimant and the EDC Note dated 19.02.2024 (Annexure-Z-7) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 19.02.2024 (Annexure-Z-7)

"1. While examining the present case for determination of eligibility, it was

7.10.2024 7/10/2024 7/10/2024

observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.03.2022 for organized a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. Wherein, the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground and the policy guidelines for alternate allotment in cases of Ground is as under:

2. As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under: - The name of JJ dwellers must appear in at least one of the Voter Lists of the Year's 2012,2013,2014,2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However, name of the applicant does not appear in voter lists of year 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015), the Voter Card number WHC 1326917 submitted by the applicant and not found valid. Found after cutoff date.

3. The applicant/claimant has failed to submit valid voter ID. card. Hence, the applicant/claimant does not fulfill the eligibility criteria. The applicant/claimant is found ineligible for alternative."

19. The survey records placed on file shows that the Jhuggi No. F-348 of the Appellant/ Claimant was found to exist but his claim was rejected by EDC on 19.02.2024 on the grounds **"Voter Card Not verified/upper floor"**. The grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z-6) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-Z-6) because had her Jhuggi found on the upper floor then EDC would have considered as to whether she was having separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for the upper floor. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the ground & second floor of Jhuggi No. F-348, which constitute single dwelling unit. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z-6) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 19.02.2024 (Annexure-Z-7) it has been mentioned that the Voter ID Card No. WHC 1326917 was not a

7.10.2024 7/10/2024 7/10/2024

valid document and further her name was not found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that she was not having a separate Ration Card. The bare perusal of the EDC Note dated 19.02.2024 (Annexure-Z-7) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-Z-6) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 19.02.2024 (Annexure-Z-7). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-Z-6) needs to be determined. Accordingly, we shall appraise the material placed on file to determine whether the Voter ID Card No. WHC 1326917 of the Appellant/ Claimant is a valid document or not in the later part of this order.

20. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. F-348 as per the policy guidelines issued by DDA.

21. As per our discussion above, the bare perusal of the EDC Note dated 19.02.2024 (Annexure-Z-7) shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. F-348 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents

7.10.2024 7/10/2024 7/10/2024

issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit comprising of the ground & second floor of the triple storey Jhuggi No. F-348 except that she was allegedly not having all the requisite documents.

22. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photograph/video clip, about the existence of the triple storey Jhuggi No. F-348. Thus the statement of the Appellant/Claimant as well as the survey records/ photograph/video clips has duly proved that the triple storey Jhuggi No. F-348 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and Rajni, who is the daughter of the present Appellant/Claimant Nirmala Devi, had also sought allotment from DDA against the first floor of the said Jhuggi No. F-348 but her claim has been rejected by Eligibility Determination Committee but she has preferred not to file an Appeal before the Appellate Authority because she is not having all the requisite documents whereas the Appellant/Claimant along with her family is living on the ground & second floor of triple storey Jhuggi No. F-348 and further both the floors are single dwelling unit and the same has been used by her for residential purposes.

23. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. N-207/525 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the ground & second floor of triple storey Jhuggi No. F-348 and further both the floors are single dwelling unit and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the ground & second floor of the said triple storey Jhuggi.

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

7.10.2024 7/10/2024 7/10/2024

the ground & second floor of the said triple storey Jhuggi No. F-348 as per the policy guidelines issued by DDA.

25. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Z and Annexure-Z-1 to Annexure-Z-7, in support of her claim and prayed that DDA be directed to make allotment in her favour.

26. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-63/39.G dated 01.07.2023.

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

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

7.10.2024 7/10/2024 7/10/2024

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."

7.10.2024 7/10/2024 7/10/2024

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

7.10.2024 7/10/2024 7/10/2024

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

7.10.2024 7/10/2024 7/10/2024

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

7.10.2024 7/10/2024 7/10/2024

Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

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

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

40. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions

7.10.2024 7/10/2024 7/10/2024

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

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

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

7.10.2024 7/10/2024

01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

7.10.2024 7/10/2024 7/10/24

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

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

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

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

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

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

50. It is pointed out that we have already held that that the triple storey Jhuggi No. N-207/525 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the ground & second floor of triple storey Jhuggi No. F-348 and further both the floors are single dwelling unit and further the Appellant/Claimant has been using the same for residential purposes and further

7.10.2024 7/10/2024 7/10/24

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

51. It is also pointed out that we have already held that the survey records placed on file shows that the Jhuggi No. F-348 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 19.02.2024 on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name was not found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Further, it has also been pointed out that the bare perusal of the EDC Note dated 19.02.2024 (Annexure-Z-7) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. F-348 of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name was found not to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

52. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the ground & second floor of the said triple storey Jhuggi, which is a single dwelling unit, bearing Jhuggi No. F-348 as per the policy guidelines issued by DDA.

53. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B),

7.10.2024 7/10/2024 7/10/2024

Aadhar Card (Annexure-C), PAN Card (Annexure-D), the Letter No. F. No. AERO/AC-17/2023/15 dated 11.05.2023 (Annexure-P) of AERO, AC-17, Wazirpur, Voter List of the year 2009 (Annexure-Q), Voter List of the year 2010 (Annexure-R), Voter List of the year 2011 (Annexure-S), Voter List of the year 2012 (Annexure-T), Voter List of the year 2013 (Annexure-U), Voter List of the year 2014 (Annexure-V), Voter List of the year 2015 (Annexure-W), Voter List of the year 2016 (Annexure-X), Voter List of the year 2017 (Annexure-Y), Voter List of the year 2018 (Annexure-Z), Voter List of the year 2019 (Annexure-Z-1), Voter List of the year 2020 (Annexure-Z-2), Voter List of the year 2022 (Annexure-Z-3) & Voter List of the year 2023 (Annexure-Z-4) in support of her claim.

54. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-Z4, in support of her claim. The first Voter ID Card No. JPF 0709436 (Annexure-A) been issued on 30.06.2002 on the address of the Jhuggi No. F-348 but no Voter List has been placed on file to show that she has used this Voter ID Card to cast vote in any of the elections after it was got issued on 30.06.2002. The second Voter ID Card bearing No. WHC 1326917 (Annexure-B) the Appellant/Claimant has been issued on 18.10.2008 and her Aadhar Card bearing No. 7945 2017 3614 (Annexure-C) has been issued on 24.09.2011. Furthermore, the Letter No. F. No. AERO/AC-17/2023/15 dated 11.05.2023 (Annexure-P) of AERO, AC-17, Wazirpur shows that Voter ID Card No. WHC 1326917 (Annexure-B) is a valid document as per records of the Election Commission and further, her name is also reflected in the Voter Lists of 2009 to 2023 on the basis of the Voter ID Card No. WHC 1326917. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1281 in the Voter List of the year 2009 (Annexure-Q), at Sl. No. 1365 in the Voter List of the year 2010 (Annexure-R), at Sl. No. 1376 in the Voter List of the year 2011 (Annexure-S), at Sl. No. 1247 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 1247 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 1409 in the Voter List of the year 2014 (Annexure-V), at Sl. No. 1612 in the Voter List of the year 2015 (Annexure-W), at Sl. No. 731 in the Voter List of the year 2016 (Annexure-X), at Sl. No. 755 in the Voter List of the year 2017 (Annexure-Y), at Sl. No. 767 in the Voter List of the year 2018 (Annexure-Z), at Sl. No. 764 in the Voter List of the year 2019 (Annexure-Z-1), at Sl. No. 808 in the Voter List of the year 2020 (Annexure-Z-2), at Sl. No. 830 in the Voter List of the year 2022 (Annexure-Z-3) & at Sl. No. 848 in the Voter List of the year 2023 (Annexure-Z-4). In all the Voter Lists (Annexure-Q to Annexure-Z and Annexure-Z-1 to Annexyure-Z-4), the

7.10.2024 7/10/2024 7/10/2024

number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1326917 (Annexure-B) and in all the above mentioned documents; Annexure-A to Annexure-C, Annexure-Q to Annexure-Z & Anneuxure-Z-1 to Annexure-Z-4), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-348, regarding which she is claiming allotment from DDA.

55. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card of the Appellant/Claimant is bearing number JPF 0709436 (Annexure-A) and it has been issued on 30.06.2002, much prior to the cut off date of 01.01.2015 on the address of the Jhuggi No. F-348, regarding which she is claiming allotment from DDA. But no Voter List has been placed on file to show that she has used this Voter ID Card to cast vote in any of the elections after it was got issued on 30.06.2002.

56. The Appellant/Claimant has tendered her second Voter ID Card bearing No. WHC 1326917 (Annexure-B) and it has been issued on 18.10.2008, much prior to the cut off date of 01.01.2015. Furthermore, the Appellant/Claimant has tendered the Aadhar Card (Annexure-C) bearing No. 7945 2017 3614 and it has been issued on 24.09.2011, much prior to the cut off date of 01.01.2015. Furthermore, the Letter No. F. No.AERO/AC-17/2023/15 dated 11.05.2023 (Annexure-P) of AERO, AC-17, Wazirpur shows that Voter ID Card No. WHC 1326917 (Annexure-B) is a valid document as per records of the Election Commission and further, her name is also reflected in the Voter Lists of 2009 to 2023 on the basis of the Voter ID Card No. WHC 1326917 (Annexure-B). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1281 in the Voter List of the year 2009 (Annexure-Q), at Sl. No. 1365 in the Voter List of the year 2010 (Annexure-R), at Sl. No. 1376 in the Voter List of the year 2011 (Annexure-S), at Sl. No. 1247 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 1247 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 1409 in the Voter List of the year 2014 (Annexure-V), at Sl. No. 1612 in the Voter List of the year 2015 (Annexure-W), at Sl. No. 731 in the Voter List of the year 2016 (Annexure-X), at Sl. No. 755 in the Voter List of the year 2017 (Annexure-Y), at Sl. No. 767 in the Voter List of the year 2018 (Annexure-Z), at Sl. No. 754 in the Voter List of the year 2019 (Annexure-Z-1), at Sl. No. 808 in the Voter List of the year 2020 (Annexure-Z-2), at Sl. No. 830 in the Voter List of the year 2022 (Annexure-Z-3) & at Sl. No. 848 in the Voter List of the year 2023 (Annexure-Z-4). It is pointed out that in all the Voter Lists (Annexure-Q to Annexure-Z and Annexure-Z-1 to Annexyure-Z-4), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1326917 (Annexure-

7.10.2024 7/10/2024 7/10/2024

B). Furthermore, in all the above mentioned documents; Annexure-A to Annexure-C, Annexure-Q to Annexure-Z & Anneuxure-Z-1 to Annexure-Z-4), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-348, regarding which she is claiming allotment from DDA.

57. A per our discussion above, DDA has not disputed about the existence of the Jhuggi of the Appellant/Claimant bearing Jhuggi No. F-56, Jailorwala Bagh, Ashok Vihar but the claim of the present Appellant/Claimant was rejected by EDC and the rejection order was communicated to him in which the reasons for rejection is mentioned to be **"Voter ID not verified/upper floor"**. As per our discussion above, we have already held that in the EDC Note dated 19.02.2024 (Annexure-Z-7) it has been mentioned the Voter ID Card No. WHC 1326917 was not a valid document and further her name was not found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor. The bare perusal of the EDC Note dated 19.02.2024 (Annexure-Z-7) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-Z-6) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 19.02.2024 (Annexure-Z-7). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-Z-6) is also not sustainable in the eyes of law as the material placed on file shows that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-348 regarding which he has been claiming allotment from DDA and further her name also appears continuously in the Voter List of the years from 2009 to 2023 and more specifically in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey but all these relevant facts were not duly considered by EDC.

58. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-348 regarding which he has been claiming allotment from DDA and further her name also appears in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the

7.10.2024 7/10/2024 7/10/2024

year of survey and accordingly, the Appellant/Claimant fulfill the eligibility criteria as per the guidelines issued by DDA.

59. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-E & Annexure-F), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of her husband Karam Das.

60. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the the Appellant/Claimant has tendered two Voter ID Cards (Annexure-E & Annexure-F), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of her husband Karam Das. The first Voter ID Card (Annexure-E) of her husband Karam Das is bearing No. JPF 0709428 and it has been issued on 30.06.2002. But no Voter List has been placed on file to show that he has used this Voter ID Card to cast vote in any of the elections after it was got issued on 30.06.2002. The second Voter ID Card (Annexure-F) of her husband Karam Das is bearing No. WHC 1266177 and it has been issued on 18.10.2008. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-H) of Karam Das and it is bearing No. 3603 7412 0427 and it has been issued on 17.09.2011. Furthermore, the name of Karam Das appears at Sl. No. 1280 in the Voter List of the year 2009 (Annexure-Q), at Sl. No. 1364 in the Voter List of the year 2010 (Annexure-R), at Sl. No. 1375 in the Voter List of the year 2011 (Annexure-S), at Sl. No. 1246 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 1246 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 1408 in the Voter List of the year 2014 (Annexure-V), at Sl. No. 1611 in the Voter List of the year 2015 (Annexure-W), at Sl. No. 730 in the Voter List of the year 2016 (Annexure-X), at Sl. No. 754 in the Voter List of the year 2017 (Annexure-Y), at Sl. No. 766 in the Voter List of the year 2018 (Annexure-Z), at Sl. No. 763 in the Voter List of the year 2019 (Annexure-Z-1), at Sl. No. 807 in the Voter List of the year 2020 (Annexure-Z-2), at Sl. No. 829 in the Voter List of the year 2022 (Annexure-Z-3) & at Sl. No. 847 in the Voter List of the year 2023 (Annexure-Z-4). It is pointed out that in all the Voter Lists (Annexure-O to Annexure-Z and Annexure-Z-1 to Annexyure-Z-4), the number of the Voter ID Card of Karam Das is mentioned to be WHC 1266177. Furthermore, in all the above mentioned documents; Annexure-E to Annexure-F, Annexure-H, Annexure-Q to Annexure-Z & Anneuxure-Z-1 to Annexure-Z-4), the address of Karam Das is mentioned to be Jhuggi No. F-348, regarding which the Appellant/Claimant is claiming allotment from DDA.

61. It is pointed out that the first Voter ID Card (Annexure-E) of her husband Karam Das is bearing No. JPF 0709428 and it has been issued on 30.06.2002, much prior to the cut off date of 01.01.2015. But no Voter List has been placed on file to show that he has used this Voter ID

7.10.2024 7/10/2024

Card to cast vote in any of the elections after it was got issued on 30.06.2002. The second Voter ID Card (Annexure-F) of her husband Karam Das is bearing No. WHC 1266177 and it has been issued on 18.10.2008, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-H) of Karam Das and it is bearing No. 3603 7412 0427 and it has been issued on 17.09.2011, much prior to the cut off date of 01.01.2015. Furthermore, the name of Karam Das appears at Sl. No. 1280 in the Voter List of the year 2009 (Annexure-Q), at Sl. No. 1364 in the Voter List of the year 2010 (Annexure-R), at Sl. No. 1375 in the Voter List of the year 2011 (Annexure-S), at Sl. No. 1246 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 1246 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 1408 in the Voter List of the year 2014 (Annexure-V), at Sl. No. 1611 in the Voter List of the year 2015 (Annexure-W), at Sl. No. 730 in the Voter List of the year 2016 (Annexure-X), at Sl. No. 754 in the Voter List of the year 2017 (Annexure-Y), at Sl. No. 766 in the Voter List of the year 2018 (Annexure-Z), at Sl. No. 763 in the Voter List of the year 2019 (Annexure-Z-1), at Sl. No. 807 in the Voter List of the year 2020 (Annexure-Z-2), at Sl. No. 829 in the Voter List of the year 2022 (Annexure-Z-3) & at Sl. No. 847 in the Voter List of the year 2023 (Annexure-Z-4). It is pointed out that in all the Voter Lists (Annexure-O to Annexure-Z and Annexure-Z-1 to Annexyure-Z-4), the number of the Voter ID Card of Karam Das is mentioned to be WHC 1266177. Furthermore, in all the above mentioned documents; Annexure-E to Annexure-F, Annexure-H, Annexure-Q to Annexure-Z & Anneuxure-Z-1 to Annexure-Z-4), the address of Karam Das is mentioned to be Jhuggi No. F-348, regarding which the Appellant/Claimant is claiming allotment from DDA.

62. The Appellant/Claimant has also tendered the Voter ID Card (Annexure-G), Aadhar Card (Annexure-J) & PAN Card (Annexure-K) of her son Raju Yadav.

63. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has also tendered the Voter ID Card (Annexure-G), Aadhar Card (Annexure-J) & PAN Card (Annexure-K) of her son Raju Yadav. The first Voter ID Card (Annexure-G) of her Son Raju Yadav is bearing No. WHC 1620392 and it has been issued on 22.02.2009. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-J) of her son Raju Yadav and it is bearing No. 6748 9625 4355 and it has been issued on 24.09.2011. Furthermore, the name of Raju Yadav appears at Sl. No. 1366 in the Voter List of the year 2010 (Annexure-R), at Sl. No. 1377 in the Voter List of the year 2011 (Annexure-S), at Sl. No. 1248 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 1248 in the Voter List of the

7.10.2024 7/10/2024 7/10/2024

year 2013 (Annexure-U), at Sl. No. 1410 in the Voter List of the year 2014 (Annexure-V), at Sl. No. 1613 in the Voter List of the year 2015 (Annexure-W), at Sl. No. 732 in the Voter List of the year 2016 (Annexure-X), at Sl. No. 756 in the Voter List of the year 2017 (Annexure-Y), at Sl. No. 768 in the Voter List of the year 2018 (Annexure-Z), at Sl. No. 765 in the Voter List of the year 2019 (Annexure-Z-1), at Sl. No. 809 in the Voter List of the year 2020 (Annexure-Z-2), at Sl. No. 831 in the Voter List of the year 2022 (Annexure-Z-3) & at Sl. No. 849 in the Voter List of the year 2023 (Annexure-Z-4). It is pointed out that in all the Voter Lists (Annexure-P to Annexure-Z and Annexure-Z-1 to Annexyure-Z-4), the number of the Voter ID Card of Raju Yadav is mentioned to be WHC 1620392. Furthermore, in all the above mentioned documents; Annexure-G, Annexure-J, Annexure-R to Annexure-Z & Anneuxure-Z-1 to Annexure-Z-4), the address of Raju Yadav is mentioned to be Jhuggi No. F-348, regarding which the Appellant/Claimant is claiming allotment from DDA.

64. It is pointed out that the first Voter ID Card (Annexure-G) of her Son Raju Yadav is bearing No. WHC 1620392 and it has been issued on 22.02.2009, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-J) of her son Raju Yadav and it is bearing No. 6748 9625 4355 and it has been issued on 24.09.2011, much prior to the cut off date of 01.01.2015. Furthermore, the name of Raju Yadav appears at Sl. No. 1366 in the Voter List of the year 2010 (Annexure-R), at Sl. No. 1377 in the Voter List of the year 2011 (Annexure-S), at Sl. No. 1248 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 1248 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 1410 in the Voter List of the year 2014 (Annexure-V), at Sl. No. 1613 in the Voter List of the year 2015 (Annexure-W), at Sl. No. 732 in the Voter List of the year 2016 (Annexure-X), at Sl. No. 756 in the Voter List of the year 2017 (Annexure-Y), at Sl. No. 768 in the Voter List of the year 2018 (Annexure-Z), at Sl. No. 765 in the Voter List of the year 2019 (Annexure-Z-1), at Sl. No. 809 in the Voter List of the year 2020 (Annexure-Z-2), at Sl. No. 831 in the Voter List of the year 2022 (Annexure-Z-3) & at Sl. No. 849 in the Voter List of the year 2023 (Annexure-Z-4). It is pointed out that in all the Voter Lists (Annexure-P to Annexure-Z and Annexure-Z-1 to Annexyure-Z-4), the number of the Voter ID Card of Raju Yadav is mentioned to be WHC 1620392. Furthermore, in all the above mentioned documents; Annexure-G, Annexure-J, Annexure-K, Annexure-R to Annexure-Z & Anneuxure-Z-1 to Annexure-Z-4), the address of Raju Yadav is mentioned to be Jhuggi No. F-348, regarding which the Appellant/Claimant is claiming allotment from DDA.

7.10.2024 7/10/2024 7/10/2024

65. The Appellant/Claimant has tendered her two Ration Cards (Annexure-L & Annexure-M), Electricity Bill (Annexure-N) & the Passbook of Bank of Baroda (Annexure-O) in support of her claim.

66. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered her two Ration Cards (Annexure-L & Annexure-M), Electricity Bill (Annexure-N) & the Passbook of Bank of Baroda (Annexure-O) in support of her claim. The old Ration card (Annexure-L) is bearing No. BPL 53171445 and it has been issued on 25.07.2008 in favour of her husband Karam Das and the name of the Appellant/Claimant and her children is mentioned. The new Ration Card (Annexure-M) is bearing No. 077002570225 and it has been issued in favour of the Appellant/Claimant on 11.06.2014. The Electricity Bill (Annexure-N) shows that her husband Karam Das had taken the electricity connection on 22.08.2005. Further, the Passbook of Bank of Baroda (Annexure-O) shows that the Appellant/Claimant has opened the account on 22.02.2013. It is also pointed out that in all the above mentioned documents; Annexure-L to Annexure-O), the address is mentioned to be Jhuggi No. F-348, regarding which the Appellant/Claimant is claiming allotment from DDA.

67. It is pointed out that the old Ration card (Annexure-L) is bearing No. BPL 53171445 and it has been issued on 25.07.2008 in favour of her husband Karam Das and the name of the Appellant/Claimant and her children is mentioned. The new Ration Card (Annexure-M) is bearing No. 077002570225 and it has been issued in favour of the Appellant/Claimant on 11.06.2014, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-N) shows that her husband Karam Das had taken the electricity connection on 22.08.2005, much prior to the cute off date of 01.01.2015. Further, the Passbook of Bank of Baroda (Annexure-O) shows that the Appellant/Claimant has opened the account on 22.02.2013, much prior to the cut off date of 01.01.2015. It is also pointed out that in all the above mentioned documents; Annexure-L to Annexure-O), the address is mentioned to be Jhuggi No. F-348, regarding which the Appellant/Claimant is claiming allotment from DDA.

68. The Appellant/Claimant has tendered his Voter ID Cards & Aadhar Card, Electoral Rolls, Electricity Bill, Bank Passbook and Ration Cards etc. and all these documents have been issued from 2008 to 2013 and it accordingly amply establishes that he as well as his family members have been living in the double storey Jhuggi No. F-348, Jailorwala Bagh, Ashok

7.10.2024 7/10/2024

Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

69. As already pointed out above DDA has furnished the survey records along with photograph/video clip pertaining to the Jhuggi No. F-348 and in that video clip the Jhuggi No. F-348 is clearly seen to be a triple storey structure from outside and further the room & kitchen Jhuggi of the Appellant/ Claimant is clearly seen. The Jhuggi of the Appellant/ Claimant on the ground floor & second floor of Jhuggi No. F-348, which constitute single dwelling unit, was also found to exist by the survey team as reflected in the EDC Note dated 19.02.2024 (Annexure-Z-7). It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. F-348 of the Appellant/Claimant but his claim was rejected wrongly by the EDC on the grounds that her Voter ID Card could not be verified and further he has claimed allotment against the upper floor inspite of the fact that as per our discussion above it has been found by us that the Appellant/Claimant has claimed allotment against the ground floor & second floor of Jhuggi No. F-348, which constitute single dwelling unit and further she was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears continuously in the voter list of the year's 2009 to 2023 and further she was having second document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but it was wrongly ignored by EDC.

70. The material placed on file shows that the Appellant/ Claimant was living separately & independently on the ground floor & second floor of Jhuggi No. F-348, which constitute single dwelling unit and further as per our discussion above, the documents, Annexure-A to Annexure-Z and Annexure- Z-1 to Annexure-Z-7, shows that the Appellant/Claimant was having a valid Voter ID Card No. JPF 0709436 dated 30.06.2002 (Annexure-A), much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. F-348 regarding which he is claiming allotment from DDA. Further, the Appellant/Claimant was having a valid Voter ID Card No. WHC 1326917 dated 18.10.2008 (Annexure-B), which has been issued on the address of Jhuggi No. F-348 regarding which he is claiming allotment from DDA and further it is issued on 18.10.2008, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant is also having the Aadhar Card No. 7945 2017 3614 (Annexure-C), which has also been issued on the address of the Jhuggi No. F-348, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further it is issued on 24.09.2011, much prior to the cutoff date of 01.01.2015. Furthermore, the Letter No. F. No.AERO/AC-17/2023/15 dated

7.10.2024 7/10/2024 7/10/2024

11.05.2023 (Annexure-P) of AERO, AC-17, Wazirpur shows that Voter ID Card No. WHC 1326917 (Annexure-B) is a valid document as per records of the Election Commission and further, her name is also reflected in the Voter Lists of 2009 to 2023 on the basis of the Voter ID Card No. WHC 1326917 (Annexure-B). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1281 in the Voter List of the year 2009 (Annexure-Q), at Sl. No. 1365 in the Voter List of the year 2010 (Annexure-R), at Sl. No. 1376 in the Voter List of the year 2011 (Annexure-S), at Sl. No. 1247 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 1247 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 1409 in the Voter List of the year 2014 (Annexure-V), at Sl. No. 1612 in the Voter List of the year 2015 (Annexure-W), at Sl. No. 731 in the Voter List of the year 2016 (Annexure-X), at Sl. No. 755 in the Voter List of the year 2017 (Annexure-Y), at Sl. No. 767 in the Voter List of the year 2018 (Annexure-Z), at Sl. No. 764 in the Voter List of the year 2019 (Annexure-Z-1), at Sl. No. 808 in the Voter List of the year 2020 (Annexure-Z-2), at Sl. No. 830 in the Voter List of the year 2022 (Annexure-Z-3) & at Sl. No. 848 in the Voter List of the year 2023 (Annexure-Z-4). It is pointed out that in all the Voter Lists (Annexure-Q to Annexure-Z and Annexure-Z-1 to Annexyure-Z-4), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1326917 (Annexure-B). Furthermore, in all the above mentioned documents; Annexure-A to Annexure-C, Annexure-Q to Annexure-Z & Anneuxure-Z-1 to Annexure-Z-4), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-348, regarding which she is claiming allotment from DDA.

Further, in addition to that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-E & Annexure-F), Aadhar Card (Annexure-H) & PAN Card (Annexure-I) of her husband Karam Das. It is pointed out that the first Voter ID Card (Annexure-E) of her husband Karam Das is bearing No. JPF 0709428 and it has been issued on 30.06.2002, much prior to the cut off date of 01.01.2015. But no Voter List has been placed on file to show that he has used this Voter ID Card to cast vote in any of the elections after it was got issued on 30.06.2002. The second Voter ID Card (Annexure-F) of her husband Karam Das is bearing No. WHC 1266177 and it has been issued on 18.10.2008, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-H) of Karam Das and it is bearing No. 3603 7412 0427 and it has been issued on 17.09.2011, much prior to the cut off date of 01.01.2015. Furthermore, the name of Karam Das appears at Sl. No. 1280 in the Voter List of the year 2009 (Annexure-Q), at Sl. No. 1364 in the Voter List of the year 2010 (Annexure-R), at Sl. No. 1375 in the Voter List of the year 2011 (Annexure-S),

7.10.2024 7/10/2024 7/10/24

at Sl. No. 1246 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 1246 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 1408 in the Voter List of the year 2014 (Annexure-V), at Sl. No. 1611 in the Voter List of the year 2015 (Annexure-W), at Sl. No. 730 in the Voter List of the year 2016 (Annexure-X), at Sl. No. 754 in the Voter List of the year 2017 (Annexure-Y), at Sl. No. 766 in the Voter List of the year 2018 (Annexure-Z), at Sl. No. 763 in the Voter List of the year 2019 (Annexure-Z-1), at Sl. No. 807 in the Voter List of the year 2020 (Annexure-Z-2), at Sl. No. 829 in the Voter List of the year 2022 (Annexure-Z-3) & at Sl. No. 847 in the Voter List of the year 2023 (Annexure-Z-4). It is pointed out that in all the Voter Lists (Annexure-O to Annexure-Z and Annexure-Z-1 to Annexyure-Z-4), the number of the Voter ID Card of Karam Das is mentioned to be WHC 1266177. Furthermore, in all the above mentioned documents; Annexure-E to Annexure-F, Annexure-H, Annexure-Q to Annexure-Z & Anneuxure-Z-1 to Annexure-Z-4), the address of Karam Das is mentioned to be Jhuggi No. F-348, regarding which the Appellant/Claimant is claiming allotment from DDA.

Moreover, the Appellant/Claimant has also tendered the Voter ID Card (Annexure-G), Aadhar Card (Annexure-J) & PAN Card (Annexure-K) of her son Raju Yadav. It is pointed out that the first Voter ID Card (Annexure-G) of her Son Raju Yadav is bearing No. WHC 1620392 and it has been issued on 22.02.2009, much prior to the cut off date of 01.01.2015. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-J) of her son Raju Yadav and it is bearing No. 6748 9625 4355 and it has been issued on 24.09.2011, much prior to the cut off date of 01.01.2015. Furthermore, the name of Raju Yadav appears at Sl. No. 1366 in the Voter List of the year 2010 (Annexure-R), at Sl. No. 1377 in the Voter List of the year 2011 (Annexure-S), at Sl. No. 1248 in the Voter List of the year 2012 (Annexure-T), at Sl. No. 1248 in the Voter List of the year 2013 (Annexure-U), at Sl. No. 1410 in the Voter List of the year 2014 (Annexure-V), at Sl. No. 1613 in the Voter List of the year 2015 (Annexure-W), at Sl. No. 732 in the Voter List of the year 2016 (Annexure-X), at Sl. No. 756 in the Voter List of the year 2017 (Annexure-Y), at Sl. No. 768 in the Voter List of the year 2018 (Annexure-Z), at Sl. No. 765 in the Voter List of the year 2019 (Annexure-Z-1), at Sl. No. 809 in the Voter List of the year 2020 (Annexure-Z-2), at Sl. No. 831 in the Voter List of the year 2022 (Annexure-Z-3) & at Sl. No. 849 in the Voter List of the year 2023 (Annexure-Z-4). It is pointed out that in all the Voter Lists (Annexure-P to Annexure-Z and Annexure-Z-1 to Annexyure-Z-4), the number of the Voter ID Card of Raju Yadav is mentioned to be WHC 1620392. Furthermore, in all the above mentioned documents; Annexure-G, Annexure-J, Annexure-K, Annexure-R to Annexure-Z & Anneuxure-Z-1 to Annexure-Z-4), the address of Raju Yadav is mentioned

7.10.2024 7/10/2024 7/10/2024

to be Jhuggi No. F-348, regarding which the Appellant/Claimant is claiming allotment from DDA.

Furthermore, the Appellant/Claimant has tendered her two Ration Cards (Annexure-L & Annexure-M), Electricity Bill (Annexure-N) & the Passbook of Bank of Baroda (Annexure-O) in support of her claim. It is pointed out that the old Ration card (Annexure-L) is bearing No. BPL 53171445 and it has been issued on 25.07.2008 in favour of her husband Karam Das and the name of the Appellant/Claimant and her children is mentioned. The new Ration Card (Annexure-M) is bearing No. 077002570225 and it has been issued in favour of the Appellant/Claimant on 11.06.2014, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-N) shows that her husband Karam Das had taken the electricity connection on 22.08.2005, much prior to the cute off date of 01.01.2015. Further, the Passbook of Bank of Baroda (Annexure-O) shows that the Appellant/Claimant has opened the account on 22.02.2013, much prior to the cut off date of 01.01.2015. It is also pointed out that in all the above mentioned documents; Annexure-L to Annexure-O), the address is mentioned to be Jhuggi No. F-348, regarding which the Appellant/Claimant is claiming allotment from DDA. The Electricity Bill (Annexure-N), the Passbook of Bank of Baroda (Annexure-O) and the Ration Cards (Annexure-L & Annexure-M) are covered as one of the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. F - 348 since long and much prior to the Cutoff date of 01.01.2015. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

71. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 136 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-63/39.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant, Nirmala Devi W/o Karam Das, in respect of the ground floor & second floor of triple storey Jhuggi No. F-348, which constitute single dwelling unit, Jailorwala Bagh,

7.10.2024 7/10/2024 7/10/2024

Ashok Vihar.

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

7.10.2024 7/10/2024 7/10/2024

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

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

Appeal No: 188 of 2024

Date of Institution: 18.07.2023

Date of Order: 08.10.2024

Present: Appellant/ Claimant Dileep Kumar S/o Sunder Lal

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. H-183, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. H-183 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-201/350/201/72.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the

8.10.2024 8/10/2024 8/10/2024

same, the present Appeal No. 188 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 04.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-V, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-183 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. H-183 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Dileep Kumar has been recorded before us on 04.10.2024 wherein he has stated that he is married with Nanhi Devi and having three children; Arjun, Ashu & Preeti. All the children are unmarried.

8/10/2024 8/10/2024 8/10/2024

9. The Appellant/Claimant has stated that he had purchased the Jhuggi No. H-183, Jailorwala Bagh, Ashok Vihar from one Mahesh in the year 2008 for a sale consideration of Rs. 70,000/- but no sale deed was executed. The said Jhuggi is a double storey structure and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has stated that he along with his family is living in the said double storey Jhuggi No. H-183 and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the first floor and further his Voter ID Card could not be verified in spite of the fact that he has claimed allotment from DDA against the said double storey Jhuggi No. H-183 and further he is having all the requisite documents as per policy guidelines and accordingly, aggrieved by the same, he has filed the present Appeal No. 188 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-V, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. It is pointed out that the Appellant/Claimant has made vague & evasive statement that he had purchased the Jhuggi No. H-183, Jailorwala Bagh from one Mahesh in the year 2008 for a sale consideration of Rs. 70,000/-. However, the details of the vendor, namely, father's name and address has not been disclosed and further the date & month of purchase is not given but it is simply stated that he had purchased the said Jhuggi in the year 2008. Furthermore, the Appellant/Claimant has categorically admitted that no sale deed was executed. On this context, it is suffice to point out that title of immovable property having value of more than Rs. 100/- mandatorily requires execution and registration of a sale deed. Accordingly, not mentioning the complete identity of the Vendor as well as the date & month of the sale and also the factum of having not executed any sale deed creates doubt & suspicion.

11. DDA has furnished survey records along with one video clip of Jhuggi No. H-183. As per survey records the survey was got conducted on 12.03.2021 by the Appellant/Claimant of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein and further the photograph of the Appellant/Claimant was also taken by the survey team. Further, at the time of conducting of videography the Appellant/Claimant, was not present.

8/10/2024 8/10/2024 8/10/2024

12. DDA has furnished survey records along with one video clip pertaining to the Jhuggi No. H-183. The video was played before the Appellant/Claimant when his statement was recorded before us on 04.10.2024 wherein he has stated that the video clip pertains to the Jhuggi No. H-183 in which the said Jhuggi is clearly seen from outside to be a double storey structure but it is clearly seen to be lying locked and a slate is seen affixed on the wall of the said Jhuggi on which **"H-183 LOCKED"** is clearly seen to have been written.

13. As already pointed out above, DDA has furnished survey records along with one video clip of Jhuggi No. H-183 and as per survey records the survey was got conducted on 12.03.2021 by the Appellant/Claimant of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein and further the photograph (Annexure-W) of the Appellant/Claimant was also taken by the survey team. However, at the time of conducting of videography the Appellant/Claimant, was not present and accordingly in the video prepared by the survey team of DDA Jhuggi No. H-183 is seen lying locked. The Appellant/Claimant has categorically stated that he was not present in Jailorwala Bagh, Ashok Vihar at the time of survey/videography of the Jhuggi No. H-183 by the survey team of DDA. There is nothing to disbelieve the Appellant/Claimant especially when the survey records placed on file by DDA shows that the survey was got conducted on 12.03.2021 by the Appellant/Claimant of the said Jhuggi No. H-183 and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein and further the photograph (Annexure-W) of the Appellant/Claimant was also taken by the survey team. Hence, not preparing of video due to absence of the Appellant/Claimant does not go to the root of the case and cannot be the ground to reject his claim solely on this ground especially when the Appellant/Claimant had got the survey conducted on 12.03.2021 of his Jhuggi No. H-183 and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned in the survey records and further the photograph of the Appellant/Claimant was also taken by the survey team in token thereof.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. H-183. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. H-183 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and

9/10/2024 8/10/2024 8/10/2024

the Appellant/Claimant along with his family is living in the double storey Jhuggi No. H-183 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the Jhuggi No. H-183 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and at that relevant time it was a single storey structure because the first floor was constructed in the year 2019 and further the Appellant/Claimant along with his family was & is still living on the ground floor of the said double storey Jhuggi No. H-183 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. H-183 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-W, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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

> **"Part-B**
> **<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.

8/10/2024 Rawat 8/10/2024 8/10/2024

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."

8/10/2024 8/10/2024 8/10/2024

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

8/10/2024 8/10/2024 8/10/2024

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

8/10/2024 Mawat 8/10/2024 8/10/2024

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

8/10/2024 8/10/2024 8/10/2024

Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

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

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

31. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions

8/10/2024 8/10/2024 8/10/2024

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

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

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

8/10/2024 8/10/2024 8/10/2024

01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

8/10/2024 8/10/2024 8/10/2024

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

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

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

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

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

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

41. It is pointed out that we have already held that the Jhuggi No. H-183 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and at that relevant time it was a single storey structure because the first floor was constructed in the year 2019 and further the Appellant/Claimant along with his family was & is still living on the ground floor of the said double storey Jhuggi No. H-183 and using the same for residential purposes and

8/10/2024 Rawat 8/10/2024 8/10/2024

further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. H-183 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2234845 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) and Voter List of the year 2022 (Annexure-V) in support of his claim.

44. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card No. WHC 2234845 (Annexure-A) and it has been issued on 16.02.2017, much after the cutoff date of 01.01.2015 and accordingly, the question of his name arising in the Voter Lists of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. The Appellant/Claimant has also tendered his Aadhar Card bearing number 3647 9612 1781 (Annexure-B) but the date of issuance is not mentioned therein. Further, his name appears at Sl. No. 757 in the Voter List of the year 2022 (Annexure-V) and in that document, his Voter ID Card No. is mentioned to be WHC 2234845 but the fact remains that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of his Jhuggi No. H-183, regarding which he is claiming allotment from DDA and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-183 regarding which he has been claiming allotment from DDA and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill

8/10/2024 8/10/2024 8/10/2024

the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/Claimant has also tendered the Voter ID Card No. WHC 3519097 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of his wife Nanhi Devi, Passbook of Indian Bank (Annexure-G), Passbook of Bank of India (Annexure-H) as well as Voter ID Card No. WHC 2223930 (Annexure-I), Aadhar Card (Annexure-J) & PAN Card (Annexure-K) of his daughter Preeti and also the Voter ID Card No. WHC 2135937 (Annexure-L), Aadhar Card (Annexure-M) & PAN Card (Annexure-N) of his son Arjun, Passbook of PNB (Annexure-P) and the school Certificates (Annexure-O and Annexure-Q to Annexure-V) of his daughter Preeti in support of his claim.

47. It is pointed out that the Appellant/Claimant has tendered the documents pertaining to his wife Nanhi Devi, daughter Preeti & son Arjun. The Voter ID Card No. WHC 3519097 (Annexure-D) of his wife Nanhi Devi has been issued on 31.12.2019, much after the cutoff date of 01.01.2015 and accordingly, the question of her name arising in the Voter Lists of the years from 2012 to 2015 does not arise. This shows that neither the Appellant/Claimant nor his wife Nanhi Devi was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-183, regarding which he is claiming allotment from DDA and further their names also don not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Further, the Appellant/Claimant has tendered the Aadhar Card (Annexure-E) of his wife Nanhi Devi but the date of issuance is not mentioned in this document. Moreover, the Voter ID Card No. WHC 2223930 (Annexure-I) of his daughter Preeti has been issued on 30.11.2016, much after the cutoff date of 01.01.2015 and accordingly, the question of her name arising in the Voter Lists of the years from 2012 to 2015 does not arise. Further, the Appellant/Claimant has tendered the Aadhar Card (Annexure-J) of his daughter Preeti but the date of issuance is not mentioned in this document. Furthermore, the Voter ID Card No. WHC 2135937 (Annexure-L) of his son Arjun has been issued on 23.01.2015, much after the cutoff date of 01.01.2015 and accordingly, the question of his name arising in the Voter Lists of the years from 2012 to 2015 does not arise. Further, the Appellant/Claimant has tendered the Aadhar Card (Annexure-M) of his son Arjun but the date of issuance is not mentioned in this document. Thus all the above mentioned documents have been issued after the cutoff date of 01.01.2015 and accordingly are not relevant to determine the eligibility of the Appellant/Claimant. It is pointed out that the Appellant/Claimant has tendered the Passbook

8/10/2024 8/10/2024 8/10/2024

of Indian Bank (Annexure-G), which shows that the Appellant/Claimant had opened the account on 25.03.2019, much after the cutoff date of 01.01.2015. The Passbook of Union Bank of India (Annexure-H) shows that his wife Nanhi Devi had opened the account on 19.07.2017, much after the cutoff date of 01.01.2015. The Passbook of PNB (Annexure-P) shows that his daughter Preeti had opened the account on 20.10.2010. The School Certificates (Annexure-O & Annexure-Q to Annexure-U) pertain to his daughter Preeti. However, it is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-183, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-183, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA

8/10/2024 Mawat 8/10/2024 8/10/2024

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

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-201/350/201/72.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

8/10/2024 8/10/2024 8/10/2024

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

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

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

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

Appeal No: 41 of 2024

Date of Institution: 10.07.2023

Date of Order: 08.10.2024

Present: Appellant/ Claimant Uma Shankar S/o Jhinu Ram

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. N-207/525, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-207/525 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-20/0038.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal

8.10.2024 8/10/2024 8/10/2024

No. 41 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 31.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S, in support of his claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA has been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. N-207/525 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. N-207/525 as per the policy guidelines issued by DDA.

8.10.2024 8/10/2024 8/10/2024

8. The statement of the Appellant/Claimant Uma Shankar has been recorded before us on 31.05.2024, wherein he has stated that he is married with Sarjati Devi and having six sons, Sumnesh, Sujit, Surdip, Swarndeep, Sumeshwar & Ishwar Chand. All the children except Sumeshwar & Ishwar Chand are married. Sumnesh is married with Pramila and having four children and he is living in Mumbai. Sujit is married with Rekha and having four children and he is living in Azamgarh, Uttar Pradesh. Surdip is married with Chanda and having two children and he is living in Azamgargh, Uttar Pradesh. Swarndeep is married with Manju and having one child and he is living in Mumbai, Maharashtra whereas Sumneshwar & Ishwar Chand are unmarried and they are living in their native village Azamgarh, Uttar Pradesh.

9. The Appellant/Claimant has stated that he along with his wife Sarjati Devi is living in a double storey Jhuggi No. N-207/525 in Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor. Further, this very Jhuggi No. N-207/525 was also later on given Jhuggi No. E-51. Thus Jhuggi No. N-207/525 & Jhuggi No. E-51 is one & the same Jhuggi and accordingly some documents have been got issued by the Appellant/Claimant on the address of Jhuggi No. N-207/525 whereas some documents have been issued on the address of Jhuggi No. E-51 at different point of time.

10. The Appellant/Claimant has stated that he has sought allotment from DDA against the said double storey Jhuggi No. N-207/525 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claimed allotment from DDA against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has admittedly sought allotment from DDA against the said double storey Jhuggi No. N-207/525 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 41 of 2020 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024 wherein he has stated that the Appellant/Claimant Uma Shankar has sought alternative allotment form DDA against the double storey Jhuggi No. N-207/525, Jailorwala Bagh but his claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card

8/10/2024 8/10/2024 8/10/2024

of the Appellant/ Claimant could not be verified and further he has claimed allotment against the upper floor. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-S) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified/upper floor"**. Aggrieved by the same, the Appeal No. 41 of 2024 has been filed by the present Appellant/ Claimant. Therefore, it is prayed that this Appellate Authority should take holistic view and legality of all the grounds be thoroughly considered to independently determine the eligibility of the Appellant/ Claimant as per the policy guidelines issued by DDA.

12. DDA has furnished survey records along with one video clip of Jhuggi No. N-207/525. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/525 on 17.03.2020 on the ground floor of the said Jhuggi and his photograph (Annexure-R) is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished the survey records along with one video clips of Jhuggi No. N-207/525. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 31.05.2024 wherein the Appellant/Claimant has stated the video clip pertains to the ground floor of Jhuggi No. N-207/525 in which from outside the said Jhuggi No. N-207/525 is clearly seen to be a double storey structure and further, an iron ladder is seen being used for going to the upper floor and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are seen and he is also stated that Jhuggi is a double storey structure and he is also seen holding a slate in his hand on which **"E-51 (207-525) UMA SHANKAR G+1"** is seen to have been written.

14. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi N-207/525, which were prepared by the survey team of DDA and also played before him when his statement was recorded before us on 30.09.2024 wherein he has stated that from outside the said Jhuggi No. N-207/525 is clearly seen to be a double storey structure and further, an iron ladder is seen being used for going to the upper floor and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are seen and he is also stated that Jhuggi is a double storey structure and further he is also seen

8/10/2024 8/10/2024 8/10/2024

holding a slate in his hand on which **"E-51 (207-525) UMA SHANKAR G+1"** is seen to have been written.

15. It is pertinent to point out that the photograph (Annexure-R) of the Appellant/Claimant taken by the survey team at the time of survey shows that on the door of the Jhuggi the number of Jhuggi is written to be Jhuggi No. E-51. Furthermore, in the video clip prepared by the survey team of DDA the Appellant/Claimant is also seen holding a slate in his hand on which **"E-51 (207-525) UMA SHANKAR G+1"** is seen to have been written. This corroborates the statement of the Appellant/Claimant that Jhuggi No. N-207/525 was later on given different number, i.e., Jhuggi No. E-51. Thus Jhuggi No. N-207/525 & Jhuggi No. E-51 is one & the same Jhuggi and accordingly in normal course some documents have been got issued by the Appellant/Claimant on the address of Jhuggi No. N-207/525 whereas some documents have been issued on the address of Jhuggi No. E-51 at different point of time

16. The statement of the Appellant/Claimant as well as his photograph (Annexure-R) taken by the survey team at the time of survey and also the video clip prepared by the survey team of DDA clearly shows that the Appellant/Claimant is having double storey Jhuggi, which happened to be bearing two numbers at different point of time, namely, Jhuggi No. N-207/525 and E-51 but both the numbers pertain to same Jhuggi being one dwelling unit. Furthermore, the claim of the Appellant/Claimant has been rejected by the EDC on the grounds **"Voter Card Not verified/upper floor"** but the existence of the Jhuggi of the Appellant/Claimant is not disputed by DDA.

17. It is admitted in the course of arguments that there was no proper mechanism to give numbers to the dwelling units/Jhuggis in Jailor Wala Bagh, Ashok Vihar. Pradhan of the respective community had come with an idea to give numbers to the Jhuggis and this was consented by all the dwellers. Therefore, the numbers on almost all the Jhuggis were given by the Pradhan/dwellers of their own without following any settled pattern. The procedure was not streamlined as some of the Jhuggis were given the same numbers. Further in the fire several Jhuggis of Jailor Wala Bagh, Ashok Vihar were destroyed about 20 years ago and the Jhuggis engulfed in the fire were reconstructed and even the numbers of Jhuggis were changed thereby giving new numbers to the freshly re-constructed Jhuggis. This led to changing of Jhuggi numbers in majority of cases and accordingly some of the documents bear old addresses whereas new documents were got issued by the dwellers on the new addresses even though the Jhuggi remained same but it bears different old & new numbers.

8.10.2024 8/10/2024 8/10/2024

Furthermore, DDA had conducted survey in different stages spread to long interval and number plates giving the "Names of the owner & Number of the Jhuggis" were affixed. Different survey numbers were given by DDA and video clippings were also prepared. In view of the matter the dwellers cannot be penalized because their Jhuggis bore different numbers at different time. The surveys records along with the video clip placed on file corroborates the statement of the Appellant/Claimant. Therefore, there is nothing to disbelieve that the family of the Appellant/Claimant is having double storey Jhuggi, which happened to be bearing two numbers at different point of time, namely, Jhuggi No. N-207/525 and E-51 and further both the numbers pertain to the same Jhuggi being one dwelling unit. The Appellant/Claimant along with his family is living separately & independently and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 41 of 2024 before the Appellate Authority for redressal.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 23.08.2022

18. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

19. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 23.08.2022 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-20/0038.G dated 01.07.2023 (Annexure-S) to the present Appellant/Claimant and the EDC Note dated 23.08.2022 (Annexure-Q) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 23.08.2022 (Annexure-N)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.03.2022 for organized a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. Wherein, the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground/Upper floor and the policy guidelines for alternate allotment in cases of Ground is as under.

8.10.2024 8/10/2024 8/10/2024

2. As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under: - The name of JJ dwellers must appear in at least one of the Voter Lists of the Year's 2012,2013,2014,2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However, name of the applicant does not appear in voter lists of year 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015), the Voter Card No-DL/04/053/270719 submitted by the applicant and not found valid.

3. The applicant/claimant has failed to submit valid voter ID. card. Hence, the applicant/claimant does not fulfill the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment."

20. The survey records placed on file shows that the Jhuggi No. N-207/525 of the Appellant/ Claimant was found to exist but his claim was rejected by EDC on 23.08.2022 on the grounds **"Voter Card Not verified/Upper Floor"**. The grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-S) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-S) because had his Jhuggi found on the upper floor then EDC would have considered as to whether he was having separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for the upper floor. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-S) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 23.08.2022 (Annexure-Q) it has been mentioned the Voter ID Card No. DL/04/053/27019 was not a valid document and further his name was not found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that he was not having a separate Ration Card. The bare perusal of the EDC Note dated 23.08.2022 (Annexure-Q) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-S) is not sustainable being

8.10.2024 8/10/2024 8/10/2024

erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 23.08.2022 (Annexure-Q). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 23.08.2022 (Annexure-Q) needs to be determined. Accordingly, we shall appraise the material placed on file to determine whether the Voter ID Card No. DL/04/053/27019 of the Appellant/ Claimant is a valid document or not in the later part of this order.

21. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. N-207/525 as per the policy guidelines issued by DDA.

22. As per our discussion above, the bare perusal of the EDC Note dated 23.08.2022 (Annexure-Q)) shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. N-207/525 of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently and using it for residential purposes is concerned but his claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit bearing double storey Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, except that he was allegedly not having all the requisite documents.

23. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photograph/video clip, about the existence of the double storey Jhuggi No. N-207/525. Thus the statement of

8.10.2024 8/10/2024 8/10/2024

the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

24. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

25. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, 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-S, in support of his claim and prayed that DDA be directed to make allotment in his favour.

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

8/10/2024 8/10/2024 8/10/2024

on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-20/0038.G dated 01.07.2023.

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

> **"Part-B**
> **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.

8.10.2024

Mawat 8/10/2024

8/10/2024

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

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

8.10.2024 S/Mawat 8/10/2024

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

8.10.2024 Mawat 8/10/2024 8/10/2024

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

8.10.2024 Rawat 8/10/2024 8/10/2024

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

8.10.2024 Rawat 8/10/2024 8/10/2024

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

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

8.10.2024 8/10/2024 8/10/2024

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

8.10.2024 Rawat 8/10/2024 8/10/2024

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

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

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

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

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

8.10.2024 8/10/2024 8/10/2024

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

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

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

51. It is pointed out that we have already held that the double storey Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

52. It is also pointed out that we have already held that the survey records placed on file shows that the Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, of the Appellant/ Claimant was found to exist but his claim was rejected by EDC on 23.08.2022 on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further his name was not found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). Further, it has also been pointed out that the bare perusal of the EDC Note dated 23.08.2022 (Annexure-Q) also shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently and using it for residential purposes is concerned but his claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further his name was found not to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015). The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether his name also

8.10.2024 8/10/2024 8/10/2024

appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

53. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, as per the policy guidelines issued by DDA.

54. The Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C), Aadhar Card (Annexure-D), Letter No. AERO/AC-17/2023/39 dated 17.05.2023 (Annexure-M) of AERO/AC-17 Wazirpur, Voter List of the year 2009 (Annexure-L), Voter List of the year 2012 (Annexure-N), Voter List of the year 2013 (Annexure-O) and Voter List of the year 2014 (Annexure-P).

55. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-S, in support of his claim. The first Voter ID Card No. DL/04/053/270719 dated 20.05.1998 (Annexure-A) and the Aadhar Card No. 5611 3706 6534 (Annexure-D) have been issued on the address of Jhuggi No. N-207/525, Jailorwala Bagh, Ashok Vihar. Whereas the second Voter ID Card No. WHC 1326651 dated 18.10.2008 (Annexure-B) and the third Voter ID Card No. WHC 1326651 dated 21.09.2019 (Annexure-C) have been issued on the address of the Jhuggi No. E-51, Jailorwala Bagh, Ashok Vihar. Furthermore, the Letter No. AERO/AC-17/2023/39 dated 17.05.2023 (Annexure-M) of AERO/AC-17 Wazirpur shows that the Voter ID Card No. WHC 1326651 of the Appellant/Claimant is a valid document as per the records of the Election Commission and further his name also appears in the Voter Lists of the year 2012 to 2014. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 945 in the Voter List of the year 2009 (Annexure-L), at Sl. No. 886 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 886 in the Voter List of the year 2013 (Annexure-O) and at Sl. No. 912 in the Voter List

8/10/2024 8/10/2024

of the year 2014 (Annexure-P) and in all the Voter Lists the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1326651 and further, in all the above referred documents (Annexure-B, Annexure-C, Annexure-L and Annexure-N to Annexure-P) the address of the Appellant/Claimant is mentioned to be Jhuggi No. E-51.

56. It is pointed out that the Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number DL/04/053/270719 and it has been issued on 20.05.1998, much prior to the cutoff date 01.01.2015 on the address of the Jhuggi No. N-207/525, Jailorwala Bagh, Ashok Vihar, regarding which he is claiming allotment from DDA. The Appellant/Claimant has tendered his Aadhar Card No. 5611 3706 6534 (Annexure-D) and it has been issued on the address of the Jhuggi No. N-207/525, regarding which he is claiming allotment from DDA. Whereas the second & the third Voter ID Card (Annexure-B & Annexure-C) are also bearing the same number, i.e., WHC 1326651 and both have been issued on the address of the Jhuggi No. E-51, Jailorwala Bagh, Ashok Vihar. The second Voter ID Card (Annexure-B) has been issued on 18.10.2008 whereas the third Voter ID Card (Annexure-C) has been issued on 21.09.2019.

57. The Appellant/Claimant has stated that the Election Commission had withdrawn the old "DL series" and had issued new series and accordingly new Voter ID Card WHC 1326651 (Annexure-B) was issued on 18.10.2008 in place of the first Voter ID Card No. DL/04/053/270719 dated on 20.05.1998 (Annexure-A) in favour of the Appellant/Claimant by the Election Commission. There is nothing to disbelieve his statement on this aspect which explains issuance of second Voter ID Card WHC 1326651 dated 18.10.2008 (Annexure-B) in place of the first Voter ID Card No. DL/04/053/270719 dated on 20.05.1998 (Annexure-A) as per direction of the Election Commission and further new address was mentioned in the second Voter ID Card WHC 1326651 dated 18.10.2008 (Annexure-B) when the same Jhuggi No. N-207/525 was given new number, namely, Jhuggi No. E-51, Jailor Bagh, Ashok Vihar and moreover, as per our discussion above, it has been found that both the numbers have been found to be given to the same Jhuggi at different point of time.

58. The Appellant/Claimant has further stated that the Election Commission had cancelled the "black & white series" and in its place it has issued new "colour series" of Voter ID Card and accordingly he had got the third Voter ID Card No. WHC 1326651 (Annexure-C) issued on 21.09.2019 in place of second Voter ID Card No. WHC 1326651 (Annexure-B) issued on

8.10.2024 8/10/2024

18.10.2008 and this explains the reason for the Appellant/Claimant having got the third Voter ID Card No. WHC 1326651 (Annexure-C) dated 21.09.2019 (Annexure-C) issued when he was already having the second Voter ID Card No. WHC 1326651 dated 18.10.2008 (Annexure-B) on the same address bearing Jhuggi No. E-51, Jailorwala Bagh, Ashok Vihar regarding which he is claiming allotment from DDA.

59. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 945 in the Voter List of the year 2009 (Annexure-L) and in that the number of the Voter ID Card is mentioned to be WHC 1326651 (Annexure-B) and further, his address is mentioned to be E-51, Jailor Bagh, Ashok Vihar. It is also pointed out that the name of the Appellant/Claimant appears at Sl. No. 886 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 886 in the Voter List of the year 2013 (Annexure-O) and at Sl. No. 912 in the Voter List of the year 2014 (Annexure-P). It is also pointed out that in all the Voter Lists (Annexure-L and Annexure-N to Annexure-P) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1326651 (Annexure-B & Annexure-C) and further his address is mentioned to be Jhuggi No. E-51, Jailorwala Bagh, Ashok Vihar. The Appellant/Claimant has tendered his Aadhar Card No. 5611 3706 6534 (Annexure-D) and it has been issued on the address of the Jhuggi No. N-207/525, regarding which he is claiming allotment from DDA. Moreover, the first Voter Id Card No. DL/04/053/270719 dated 20.05.1998 of the Appellant/Claimant was also issued on the address of the Jhuggi No. N-207/525, Jailorwala Bagh, Ashok Vihar, regarding which he is claiming allotment from DDA. Further, as per our discussion above, the material placed on file shows that the Jhuggi bearing number E-51 as well as the Jhuggi bearing number N-207/525 relates to the same Jhuggi of the Appellant/Claimant and this shows that it is one and the same dwelling unit especially when DDA has not disputed about the existence of the Jhuggi of the Appellant/Claimant in Jailorwala Bagh.

60. The Letter No. AERO/AC-17/2023/39 dated 17.05.2023 (Annexure-M) of AERO/AC-17 Wazirpur has also verified the Voter ID Card No. WHC 1326651 (Annexure-B & Annexure-C) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 1326651 has also been reflected in the Voter List of the year 2009 (Annexure-L) and also in the Voter List of the years from 2012 to 2014 (Annexure-N to Annexure-P). This again corroborates the statement of the Appellant/Claimant that he was having a valid Voter ID Card No. WHC 1326651 (Annexure-B & Annexure-C) on the cutoff date 01.01.2015 and further, his name also appears in the

8.10.2024 Rawat 8/10/2024

Voter List of the years 2009 and also from 2012 to 2014. But these facts were not duly considered by the EDC. Accordingly, the findings of the EDC recorded in the EDC Note dated 23.08.2022 (Annexure-Q) and also the ground of rejection reflected in the Rejection Order dated 01.07.2023 (Annexure-S) that "the Voter ID Card of the Appellant/Claimant could not be verified" is wrong & erroneous and accordingly the same is not sustainable in the eyes of law because the Letter No. AERO/AC-17/2023/39 dated 17.05.2023 (Annexure-M) of AERO/AC-17 Wazirpur has verified that the Voter ID Card No. WHC 1326651 (Annexure-B & Annexure-C) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID card also appears in the Voter Lists of the year 2009 and also from 2012 to 2014.

61. A per our discussion above, DDA has not disputed about the existence of the Jhuggi of the Appellant/Claimant bearing Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, Jailorwala Bagh, Ashok Vihar but the claim of the present Appellant/Claimant was rejected by the EDC and the rejection order was communicated to him in which the reason for rejection is mentioned to be **"Voter ID not verified/upper floor"**. It is pointed out that the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card. As pointed out above, that the Appellant/Claimant has tendered his three Voter ID Cards (Annexure-A to Annexure-C). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number DL/04/053/270719 and it has been issued on 20.05.1998, much prior to the cutoff date 01.01.2015 on the address of the Jhuggi No. N-207/525 Jailor Bagh, Ashok Vihar whereas the second & the third Voter ID Card (Annexure-B & Annexure-C) are also bearing the same number, i.e., WHC 1326651 and both have been issued on the address of the Jhuggi No. E-51, Jailor Bagh, Ashok Vihar. The second Voter ID Card (Annexure-B) has been issued on 18.10.2008 whereas the third Voter ID Card (Annexure-C) has been issued on 21.09.2019. Further, the Election Commission had withdrawn the old "DL series" and had issued new series and accordingly new Voter ID Card WHC 1326651 (Annexure-B) was issued on 18.10.2008 in place of the first Voter ID Card No. DL/04/053/270719 dated on 20.05.1998 (Annexure-A) in favour of the Appellant/Claimant by the Election Commission on the address of Jhuggi No. E-51, Jailor Bagh, Ashok Vihar, which was previously bearing Jhuggi No. N-207/525, Jailor Bagh, Ashok Vihar and further it has been found by us that both the numbers, i.e., N-207/525 & E-51, have been found to be given to the same Jhuggi at different point of time. Thereafter, the Election Commission had cancelled the "black & white series" and in its place it has issued new "colour series" of Voter

8-10-2024 Rawat 8/10/2024 8/10/2024

ID Card and accordingly the Appellant/Claimant has got the third Voter ID Card No. WHC 1326651 (Annexure-C) dated 21.09.2019 (Annexure-C) issued when he was already having the second Voter ID Card No. WHC 1326651 dated 18.10.2008 (Annexure-B) on the same address bearing Jhuggi No. E-51, Jailorwala Bagh, Ashok Vihar regarding which he is claiming allotment from DDA. Further, the Letter No. AERO/AC-17/2023/39 dated 17.05.2023 (Annexure-M) of AERO/AC-17 Wazirpur has also verified the Voter ID Card No. WHC 1326651 (Annexure-B & Annexure-C) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 1326651 has also been reflected in the Voter List of the years 2009 and also from 2012 to 2014. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 945 in the Voter List of the year 2009 (Annexure-L), at Sl. No. 886 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 886 in the Voter List of the year 2013 (Annexure-O) and at Sl. No. 912 in the Voter List of the year 2014 (Annexure-P) and in all the above referred Voter Lists (Annexure-L and Annexure-N to Annexure-P) the number of the Voter ID Card is mentioned to be WHC 1326651 (Annexure-B & Annexure-C) and further, his address is mentioned to be E-51, Jailor Bagh, Ashok Vihar, which was bearing old number, Jhuggi No. N-207/525, regarding which he is claiming allotment from DDA.

62. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in any of the voter list of the year's 2009, 2012, 2013 & 2014 but all these relevant & material facts were not duly considered by EDC.

63. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because his name does not appear in the voter list of 2015 & in the year of survey, i.e., 2020 (because as per the survey records placed on file survey/videography was conducted on 17.03.2020) even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013 & 2014.

64. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

8.10.2024

Jhawat 8/10/2024

8/10/2024

(iv) in any year if such revision has been directed by the Election Commission.

65. Therefore, the reasons for not tendering the Voter List of the years 2015 (prior to 01.01.2015) & 2020 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the years 2015 (prior to 01.01.2015) and 2020 (year of survey) when it was not prepared/ available with the Election Commission.

66. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains the first Voter ID Card on 20.05.1998, second Voter ID Card on 18.10.2008 and third Voter ID Card on 21.09.2019, before the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears in the voter list of the year's 2009, 2012, 2013 and 2014 but their name happened to be not appearing in the Voter List of the year 2015 (prior to 01.01.2015) and 2020 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter list of the year 2015 & 2020 even though they possess all the relevant documents, including a valid Voter Id Card on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2009, 2012, 2013 & 2014 and further all these documents in unequivocal terms shows that they have been continuing living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the years 2015 (prior to 01.01.2015) and 2020 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the voter list of the year 2015 (prior to 01.01.2015) and 2020 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No.

8-10-2024 8/10/2024 8/10/2024

DL/053/270719 dated 20.05.1998 (Annexure-A), Voter ID Card No. WHC 1326651 dated 18.10.2008 (Annexure-B) & Voter ID Card No. WHC 1326651 dated 21.09.2019 (Annexure-C), which has been issued on the address of Jhuggi No. E-51 (old number -N-207/525) regarding which he is claiming allotment from DDA and further all the Voter ID Cards have been issued much prior to the cutoff date of 01.01.2015. The Appellant/Claimant is also having the Aadhar Card No. 5611 3706 6534 (Annexure-D), which has also been issued on the address of the Jhuggi No. N-207/525, Jailorwala Bagh, regarding which he is claiming allotment from DDA. Further, the Letter No. AERO/AC-17/2023/39 dated 17.05.2023 (Annexure-M) of AERO/AC-17 Wazirpur has also verified the Voter ID Card No. WHC 1326651 (Annexure-B & Annexure-C) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 1326651 has also been reflected in the Voter List of the years from 2009 and from 2012 to 2014. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 945 in the Voter List of the year 2009 (Annexure-L), at Sl. No. 886 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 886 in the Voter List of the year 2013 (Annexure-O) and at Sl. No. 912 in the Voter List of the year 2014 (Annexure-P) and in all the above referred Voter Lists (Annexure-L and Annexure-N to Annexure-P) the number of the Voter ID Card is mentioned to be WHC 1326651 (Annexure-B & Annexure-C) and further, his address is mentioned to be E-51, Jailor Bagh, Ashok Vihar, which was bearing old number, Jhuggi No. N-207/525, regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/525 (E-51) regarding which he has been claiming allotment from DDA and further his name also appears in the voter list of the year's 2012, 2013 and 2014.

67. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

8.10.2024 8/10/2024

68. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
>
> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for*

8-10-2024 S/Rawat 8/10/2024 8/10/2024

names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

69. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

70. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and he is also found to be having a valid Voter ID Card on the cutoff date of 01.01.2015 and also a Aadhar Card and further he possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view especially when he was having a valid Voter ID Card on the cutoff date of 01.01.2015 & Aadhar Card No. 5611 3706 6534 (Annexure-D) and further his name also appears continuously in the Voter Lists from the years 2009 and 2012 to 2014 (Annexure-L and Annexure-N to Annexure-P) and all the documents have been issued on the address of Jhuggi No. E-51 (old number N-207/525) regarding which he is claiming allotment from DDA and further he as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

71. Now we shall appraise the material placed on file to determine as to whether there are

8.10.2024 8/10/2024 8/10/2024

documents placed on file to shows that the Appellant/Claimant along with his family was living in Jhuggi No. N-207/525 (E-51) since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.

72. The Appellant/Claimant has tendered Voter ID Card No. DL/04/053/270718 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Sarjati Devi, Electricity Bill (Annexure-G), Ration Cards (Annexure-H to Annexure-J) and the Passbook of PNB (Annexure-K) in support of his claim.

73. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered the documents (Annexure-E to Annexure-K). The Voter ID Card No. DL/04/053/270718 dated 20.05.1998 (Annexure-E) and Aadhar Card No. 7632 6309 4671 (Annexure-F) of his wife Sarjati Devi have been issued on the address of the Jhuggi No. N-207/525. The Electricity Bill (Annexure-G) shows that the Appellant/Claimant had taken electricity connection on the address of the Jhuggi No. N-207/525 on 05.03.2009. Furthermore, the Appellant/Claimant has tendered three Ration Cards (Annexure-H to Annexure-J). The first Ration Card No. 889561 (Annexure-H) has been issued in favour of his wife Sarjati Devi and the name of the Appellant/Claimant and of all the children are mentioned and it has been issued on 17.05.1989 on the address of Jhuggi No. N-207/525. The second Ration Card No. BPL 53171654 (Annexure-I) has been issued in favour of the Appellant/Claimant and the name of his wife and all the children are mentioned and it has been issued on 04.08.2008 on the address of the Jhuggi No. N-207/525. The third Ration Card No. 07700257464 (Annexure-J) has been issued in favour of his wife Sarjati Devi and the name of the Appellant/Claimant is mentioned and it has been issued on the address of the Jhuggi No. N-207/525 but the date of issuance is not mentioned. The Passbook of PNB (Annexure-K) shows that the Appellant/Claimant had opened the account on 04.04.2013 on the address of the Jhuggi No. N-207/525.

74. It is pointed out that the Voter ID Card No. DL/04/053/270718 (Annexure-E) of his wife Sarjati Devi has been issued on 20.05.1998, much prior to the cutoff date 01.01.2015 and it has been issued on the address of the Jhuggi No. N-207/525. Furthermore, Aadhar Card (Annexure-F) of his wife Sarjati Devi bearing number 7632 6309 4671 has been issued on the address of the Jhuggi No. N-207/525. It is pointed out that the Electricity Bill (Annexure-G) shows that the Appellant/Claimant had taken electricity connection on the address of the

8.10.2024 8/10/2024

Jhuggi No. N-207/525 on 05.03.2009, much prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has tendered three Ration Cards (Annexure-H to Annexure-J). The first Ration Card No. 889561 (Annexure-H) has been issued in favour of his wife Sarjati Devi and the name of the Appellant/Claimant and of all the children are mentioned and it has been issued on 17.05.1989, much prior to the cutoff date 01.01.2015 and further, it has been issued on the address of Jhuggi No. N-207/525. The second Ration Card No. BPL 53171654 (Annexure-I) has been issued in favour of the Appellant/Claimant and the name of his wife and all the children are mentioned and it has been issued on 04.08.2008, much prior to the cutoff date 01.01.2015 and it has been issued on the address of the Jhuggi No. N-207/525. The third Ration Card No. 07700257464 (Annexure-J) has been issued on the address of the Jhuggi No. N-207/525 in favour of his wife Sarjati Devi and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The Passbook of PNB (Annexure-K) shows that the Appellant/Claimant had opened the account on the address of the Jhuggi No. N-207/525 on 04.04.2013, much prior to the cutoff date 01.01.2015. The Electricity Bill (Annexure-G), Passbook of PNB (Annexure-K) and the Ration Cards (Annexure-H to Annexure-J) are covered as one of the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. N-207/525 (E-51) since long and much prior to the Cutoff date of 01.01.2015.

75. The Appellant/Claimant has tendered his Voter ID Cards & Aadhar Card, Electoral Rolls, Electricity Bill, Bank Passbook and Ration Cards etc. and all these documents have been issued from 1998 to 2013 and it accordingly amply establishes that he as well as his family members have been living in the double storey Jhuggi No. N-207/525 (E-51), Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

76. As already pointed out above DDA has furnished the survey records along with photograph (Annexure-R) & video clip pertaining to the Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, and in that video clip the Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, is clearly seen to be a double storey structure from outside and further the room & kitchen Jhuggi of the Appellant/ Claimant is clearly seen. The Jhuggi of the

8.10.2024 8/10/2024 8/10/2024

Appellant/ Claimant was also found to exist by the survey team as reflected in the EDC Note dated 23.08.2022 (Annexure-Q). It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, of the Appellant/Claimant but his claim was rejected wrongly by the EDC on the grounds that her Voter ID Card could not be verified and further he has claimed allotment against the upper floor inspite of the fact that as per our discussion above it has been found by us that the Appellant/Claimant has claimed allotment against the double storey Jhuggi and further he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears continuously in the voter list of the year's 2009 and from 2012 to 2014 and further he was having second document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but it was wrongly ignored by EDC.

77. The material placed on file shows that the Appellant/ Claimant was living separately & independently in the double storey Jhuggi No. N-207/525, which was later on given Jhuggi No. E-51, and further as per our discussion above, the documents, Annexure-A to Annexure-S, shows that the Appellant/Claimant was having a valid Voter ID Card No. DL/053/270719 dated 20.05.1998 (Annexure-A), much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. N-207/525 regarding which he is claiming allotment from DDA. Further, the Appellant/Claimant was having a valid Voter ID Card No. WHC 1326651 dated 18.10.2008 (Annexure-B), which has been issued on the address of Jhuggi No. E-51 regarding which he is claiming allotment from DDA and further it is issued on 18.10.2008, much prior to the cutoff date of 01.01.2015. Moreover, the another Voter ID Card No. WHC 1326651 dated 21.09.2019 (Annexure-C) of the Appellant/Claimant has been issued on the address of Jhuggi No. E-51 regarding which he is claiming allotment from DDA. The Appellant/Claimant is also having the Aadhar Card No. 5611 3706 6534 (Annexure-D), which has also been issued on the address of the Jhuggi No. N-207/525, Jailorwala Bagh, regarding which he is claiming allotment from DDA. The Letter No. AERO/AC-17/2023/39 dated 17.05.2023 (Annexure-M) of AERO/AC-17 Wazirpur has also verified the Voter ID Card No. WHC 1326651 (Annexure-B & Annexure-C) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 1326651 has also been reflected in the Voter List of the years from 2009 and 2012 to 2014. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 945 in the Voter List of the year 2009 (Annexure-L), at Sl. No. 886 in the Voter List of the year 2012 (Annexure-N), at Sl. No. 886 in the Voter List of the year 2013 (Annexure-O) and at Sl. No. 912 in the Voter List of the year 2014

8.10.2024 8/10/2024 8/10/2024

(Annexure-P) and in all the above referred Voter Lists (Annexure-L and Annexure-N to Annexure-P) the number of the Voter ID Card is mentioned to be WHC 1326651 (Annexure-B & Annexure-C) and further, his address is mentioned to be E-51, Jailor Bagh, Ashok Vihar, bearing old number, Jhuggi No. N-207/525, regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. E-51, bearing old number N-207/525, regarding which he has been claiming allotment from DDA. Furthermore, the Voter ID Card No. DL/04/053/270718 (Annexure-E) of his wife Sarjati Devi has been issued on 20.05.1998, much prior to the cutoff date 01.01.2015 and it has been issued on the address of the Jhuggi No. N-207/525 and the Aadhar Card (Annexure-F) of his wife Sarjati Devi bearing number 7632 6309 4671 has been issued on the address of the Jhuggi No. N-207/525. It is pointed out that the Electricity Bill (Annexure-G) shows that the Appellant/Claimant had taken electricity connection on the address of the Jhuggi No. N-207/525 on 05.03.2009, much prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has tendered three Ration Cards (Annexure-H to Annexure-J). The first Ration Card No. 889561 (Annexure-H) has been issued in favour of his wife Sarjati Devi and the name of the Appellant/Claimant and of all the children are mentioned and it has been issued on 17.05.1989, much prior to the cutoff date 01.01.2015 and further, it has been issued on the address of Jhuggi No. N-207/525. The second Ration Card No. BPL 53171654 (Annexure-I) has been issued in favour of the Appellant/Claimant and the name of his wife and all the children are mentioned and it has been issued on 04.08.2008, much prior to the cutoff date 01.01.2015 and it has been issued on the address of the Jhuggi No. N-207/525. The third Ration Card No. 07700257464 (Annexure-J) has been issued on the address of the Jhuggi No. N-207/525 in favour of his wife Sarjati Devi and the name of the Appellant/Claimant is mentioned but the date of issuance is not mentioned. The Passbook of PNB (Annexure-K) shows that the Appellant/Claimant had opened the account on the address of the Jhuggi No. N-207/525 on 04.04.2013, much prior to the cutoff date 01.01.2015. The Electricity Bill (Annexure-G), Passbook of PNB (Annexure-K) and the Ration Cards (Annexure-H to Annexure-J) are covered as one of the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. E-51, bearing old number N-207/525, since long and much prior to the Cutoff date of 01.01.2015. In the light of our detailed discussion, we have no hesitation

8.10.2024 Mawat 8/10/2024

in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

78. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 41 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-20/0038.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant, Uma Shankar S/o Jhinu Ram, in respect of the double storey Jhuggi N-207/525, which was later on given Jhuggi No. E-51, Jailorwala Bagh, Ashok Vihar.

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

8.10.2024 8/10/2024 8/10/2024

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

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

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

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

Appeal No: 192 of 2024

Date of Institution: 19.07.2023

Date of Order: 09.10.2024

Present: Appellant/ Claimant Raj Kumar S/o Ram Pyare

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. H-249, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-249 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-41/36.1 dated 01.07.2023 to

9.10.2024 9/10/2024 9/10/2024

the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 192 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 07.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-249 was found to exist on the first floor but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the Jhuggi No. H-249 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Raj Kumar has been recorded before us on 07.10.2024 wherein he has stated that his parents, Ram Payare & Ganea, are having four sons; Ram Bilas, Ajay, Chedi & Raj Kumar and one daughter Reena. Ram Payare had expired

9.10.2024 9/10/2024 9/10/2024

in the year 2023. All the children are married. Reena is married with Lalu and she is living in her matrimonial home in Gorakhpur, Uttar Pradesh. Ajay is married with Sweta and having two children and Chedi is married with Mithai and having six children. Both, Ajay & Chedi along with their respective families are living with their mother in their native village in Gorakhpur, Uttar Pradesh. Ram Bilas is married with Gudiya and having three children. Raj Kumar (Appellant/Claimant) is married with Sunita and having two children; Ayush & Arti.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. H-249, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that his brother Ram Bilas along with his wife Gudiya & all the three children is living on the ground floor of the said Jhuggi No. H-249 and regarding that DDA has made alternative allotment in favour of Gudiya W/o Ram Bilas. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that he along with his wife Sunita and both the children; Ayush & Arti, is living on the first floor of the said Jhuggi No. H-249. The Appellant/Claimant has sought alternative allotment from DDA against the first floor of the said Jhuggi No. H-249 but his claim was rejected by Eligibility Determination Committee on the ground that, he was found to be claiming allotment against the first floor in spite of the fact that admittedly he has claimed allotment against the first floor of the said double storey Jhuggi No. H-249 and further he is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 192 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, in support of his claim and prayed that DDA be directed to make allotment in his favour.

12. DDA has furnished survey records along with two video clips of Jhuggi No. H-249. As per survey records the survey was got conducted on 22.03.2020 by the Appellant/Claimant of Jhuggi No. H-249 and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

9.10.2024 9/10/2024 9/10/2024

13. DDA has furnished survey record along with two video clips pertaining to the Jhuggi No. H-249. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 07.10.2024 wherein he has stated that the first video clip pertains to the ground floor of the Jhuggi No. H-249 in which his sister-in-law, Gudiya W/o Ram Bilas, is seen and getting the survey conducted and further, her room & kitchen are also seen and further, Gudiya is also heard thereby making a statement that her brother-in-law Raj Kumar is living on the upper floor and further, she is seen holding a slate in her hand on which **"H-249 GUDIYA G+1"** is seen to have been written. The second video clip pertains to the first floor of the Jhuggi No. H-249 in which the Appellant/Claimant is seen and getting the survey conducted and further, his room & kitchen on the first floor are also seen and further, he is seen holding a slate in his hand on which **"H-249 RAJ KUMAR FF"** is seen to have been written.

14. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the double storey Jhuggi No. H-249. The statement of the Appellant/Claimant is duly corroborated by the survey records tendered by DDA as well as the video clips prepared by the survey team and placed on file by DDA and it shows that Jhuggi No. H-249 is a double storey pucca structure and it comprise of one room on each floor and further, Gudiya W/o Ram Bilas, along with her family is living on the ground floor of the Jhuggi No. H-249 whereas the present Appellant/Claimant along with his family is living on the first floor of the Jhuggi No. H-249. Furthermore, the Appellant/Claimant along with his family is using his Jhuggi on the first floor of the said Jhuggi No. H-249 for residential purposes.

15. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-249 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. H-249 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the

9.10.2024 9/10/2024 9/10/2024

year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. H-249 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-D, in support of his claim and prayed that DDA be directed to make allotment against the first floor of the said double storey Jhuggi No. H-249 in his favour.

18. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-41/36.1 dated 01.07.2023.

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

> **"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.

9.10.2024 S/Mawat 9/10/2024 Nirmal 9/10/2024

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.

9.10.2024 9/10/2024 9/10/2024

- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

9.10.2024 9/10/2024 9/10/2024

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

9.10.2024 9/10/2024 9/10/2024

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

9.10.2024 9/10/2024 9/10/2024

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

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

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

9.10.2024 9/10/2024 9/10/2024

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

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

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

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

9.10.2024 9/10/2024 9/10/2024

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

9.10.2024 9/10/2024 9/10/2024

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

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

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

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

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

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

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

42. It is pointed out that we have already held that the double storey Jhuggi No. H-249 was in

9.10.2024 9/10/2024 9/10/2024

existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living on the first floor of the said double storey Jhuggi No. H-249 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

43. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the first floor of the said double storey Jhuggi No. H-249 as per the policy guidelines issued by DDA.

44. The Appellant/Claimant has tendered his Voter ID Card No. WHC 1924297 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

45. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 1924297 (Annexure-A) and it has been issued on 15.04.2013, much prior to the cutoff date of 01.01.2015. Further, his Aadhar Card (Annexure-B) is bearing No. 9053 6801 6250 and it has been issued on 13.05.2012, much prior to the cutoff date of 01.01.2015. However, the Appellant/Claimant has not tendered any Voter List to show that he had used his Voter ID Card to cast vote in any of the elections after issuance of this Voter ID Card and more particularly in the years 2014 & 2015 and also in the year of survey.

46. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-249 regarding which he has been claiming allotment from DDA but no Voter List has been placed on file to show that his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The Appellant/Claimant has admitted that he was not having a separate Ration Card on the

9.10.2024 Rawat 9/10/2024 9/10/2024

cutoff date of 01.01.2015 issued on the address of first floor of the Jhuggi No. H-249 regarding which he is claiming allotment from DDA. The fact remains that the Appellant/Claimant was not having a separate Ration Card issued on the address of the first floor of the Jhuggi No. H-249, regarding which he is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

48. The Appellant/Claimant has tendered the Passbook of SBI (Annexure-D) in support of his claim.

49. It is pointed out that the Appellant/Claimant has tendered the Passbook of SBI (Annexure-D) which shows that the Appellant/Claimant has opened the account on 20.05.2014. The Appellant/Claimant has stated that he along with his wife Sunita and both the children; Ayush & Arti, is living on the first floor of the said Jhuggi No. H-249 but he has not tendered the Voter ID Card & Aadhar Card his wife Sunita as well as the Aadhar Cards etc. of his both the children; Ayush & Arti issued on the address of the first floor of the said Jhuggi No. H-249 to corroborate his statement that he along with his family is living there. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. H-249 regarding which he has been claiming allotment from DDA and further no Voter List has been placed on file to show that his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

9.10.2024 9/10/2024 9/10/2024

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

51. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. H-249, Jailorwala Bagh, regarding which he is claiming allotment from DDA in spite of the fact that he is claiming allotment from DDA against the upper floor and further no Voter List has been placed on file to show that his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-D, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

52. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-41/36.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

9.10.2024 9/10/2024 9/10/2024

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

9.10.2024 9/10/2024 9/10/2024

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

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

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

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

Appeal No: 87 of 2024

Date of Institution: 12.07.2023

Date of Order: 09.10.2024

Present: Appellant/ Claimant Karmi Devi @ Kasmi Devi @ Kalmi Devi W/o Ram Bihari

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. I-86, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-86 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

9.10.2024 9/10/2024 9/10/2024

allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-83/46.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 87 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 04.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. I-86 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Y) whereby the reasons for rejection is mentioned to be **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

9.10.2024 9/10/2024 9/10/2024

12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. I-86 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/ Claimant Karmi Devi @ Kasmi Devi @ Kalmi Devi W/o Ram Bihari has been recorded before us on 04.06.2024, wherein she has stated that she is married with Ram Bihari and having two sons, Suraj & Rana and one daughter, Sangita. Rana is unmarried. Sangita is married with Shivam and she is living in her matrimonial home in Lucknow, Uttar Pradesh. Suraj is married with Badami and having two children.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. I-86 and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that her son, Suraj, along with his wife Badami & both the children is living on the first floor of the Jhuggi No. I-86 and regarding that Badami has sought allotment from DDA but her claim has been rejected by the Eligibility Determination Committee but she has chosen not to file appeal before the Appellate Authority against the rejection order. These facts are not disputed by DDA.

11. The Appellant/Claimant has stated that she along with her husband Ram Bihari & her unmarried son, Rana, is living on the ground floor of the Jhuggi No. I-86. The Appellant/Claimant has sought allotment from DDA against the ground floor of the said Jhuggi No. I-86 but her claim has been rejected by the Eligibility Determination Committee on the ground that she was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 in spite of the fact that she has been claiming allotment against the ground floor of the Jhuggi No. I-86 and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 87 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-Z, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024 wherein he has stated that the Appellant/Claimant Karmi Devi has sought alternative allotment form DDA against the

9.10.2024 Rawat 9/10/2024 9/10/2024

Jhuggi No. I-86, Jailorwala Bagh but her claim for alternative allotment was rejected by Eligibility Determination Committee on the ground that the Appellant/Claimant Karmi Devi had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment issued by DDA. Further, the Rejection Order was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Y) whereby the reasons for rejection is mentioned to be **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"**. Aggrieved by the same, the Appeal No. 87 of 2024 has been filed by the present Appellant/ Claimant. Therefore, it is prayed that this Appellate Authority should take holistic view and legality of all the grounds be thoroughly considered to independently determine the eligibility of the Appellant/ Claimant as per the policy guidelines issued by DDA.

13. DDA has furnished survey records along with one video clip of Jhuggi No. I-86. As per survey records the survey was got conducted by the Appellant/Claimant on the ground floor of the Jhuggi No. I-86 on 18.03.2020 on the ground floor of the said Jhuggi and her photograph (Annexure-X) is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

14. DDA has furnished the survey records along with two video clips of Jhuggi No. I-86. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 04.06.2024 wherein the Appellant/Claimant has stated that the first video clip pertains to the first floor of the Jhuggi No. I-86 in which her daughter-in-law, Badami W/o Suraj, is seen and getting the survey conducted of the first floor and further, her room & kitchen are seen and further, she is also seen holding a slate in her hand on which **"I-86 BADAMI PRAJAPATI FF"** is seen to have been written. The second video clip pertains to the ground floor of the Jhuggi No. I-86 in which her husband Ram Bihari is seen and getting the survey conducted on the behalf of the Appellant/Claimant Karmi Devi and further, room & kitchen on the ground floor are seen and he is also seen holding a slate in his hand on which **"I-86 RAM BIHARI NOT IN LIST G+1"** is seen to have been written.

15. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi I-86, which

9.10.2024 9/10/2024 9/10/2024

were prepared by the survey team of DDA and also played before him when his statement was recorded before us on 30.09.2024 wherein he has stated that the first video clip pertains to the first floor of the Jhuggi No. I-86 in which her daughter-in-law, Badami W/o Suraj, is seen and getting the survey conducted of the first floor and further, her room & kitchen are seen and further, she is also seen holding a slate in her hand on which **"I-86 BADAMI PRAJAPATI FF"** is seen to have been written. The second video clip pertains to the ground floor of the Jhuggi No. I-86 in which her husband Ram Bihari is seen and getting the survey conducted on the behalf of the Appellant/Claimant Karmi Devi and further, room & kitchen on the ground floor are seen and he is also seen holding a slate in his hand on which **"I-86 RAM BIHARI NOT IN LIST G+1"** is seen to have been written.

16. There is no doubt that Ram Bihari, who is the husband of the Appellant/Claimant is seen and getting the survey conducted on behalf of the Appellant/Claimant Karmi Devi in the video clip prepared by the survey team of DDA but he is seen holding a slate in his hand on which instead of mentioning the name of the Appellant/Claimant the name of Ram Bihari is written on the slate **"I-86 RAM BIHARI NOT IN LIST G+1"**. However, this fact alone is not sufficient to discard the claim of the Appellant/Claimant especially when she was very much present on 18.03.2020 when the survey was conducted and further her photograph (Annexure-X) was taken by the survey team of DDA thereby corroborating that the real claimant is none but the present Appellant/Claimant. Further, the reasons for not mentioning the name of Appellant/Claimant on the slate does not go to the root of the case. Furthermore, the fact can not be lost sight that the present Appellant/Claimant and her husband are illiterate and the name on the slate was written by the member of the survey team of DDA and accordingly not mentioning the name of the present Appellant/Claimant on the slate and instead mentioning the name of her husband Lal Bihari is not material. The fact remains that the Appellant/Claimant has claimed allotment from DDA against the ground floor of Jhuggi No. I-86 and further she has got the survey conducted on 18.03.2020 on the ground floor of the said Jhuggi and her photograph (Annexure-X) was taken by the survey team of DDA in token thereof and the same is also annexed with the survey records.

17. The statement of the Appellant/Claimant as well as her photograph (Annexure-X) taken by the survey team at the time of survey and the video clips prepared by the survey team of DDA clearly shows that Badami W/o Suraj along with her family is living on the first floor of

9.10.2024 9/10/2024 9/10/2024

the double storey Jhuggi No. I-86 and further she had not sought allotment from DDA against the first floor of the said Jhuggi No. I-86 whereas the Appellant/Claimant along with her family is living on the ground floor of the double storey Jhuggi No. I-86 and the same has been used by her for residential purposes but her claim has been rejected BY EDC on the grounds that the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but the existence of the Jhuggi of the Appellant/Claimant is not disputed.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 22.01.2023

18. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

19. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 22.01.2023 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-83/46.G dated 01.07.2023 (Annexure-Y) to the present Appellant/Claimant and the EDC Note dated 22.01.2023 (Annexure-Z) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 22.01.2023 (Annexure-Z)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.05.2022 for organized a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. wherein, the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground and the policy guidelines for alternate allotment in cases of Ground is as under:

2. As per policy guidelines, Part –B (Clause –VI) The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under - The JJ dwellers must possess any one of the 12 documents issued before 01.01.2015 as prescribed in the subsequent para. The Applicant fails to submit a second document in support of his claim.

3. The applicant/claimant has failed to submit a second document in support of his claim. Hence; the applicant/claimant does not fulfill the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment."

9.10.2024 9/10/2024 9/10/2024

20. The survey records placed on file shows that the Jhuggi No. I-86 of the Appellant / Claimant was found to exist but her claim was rejected by EDC on 22.01.2023 on the sole ground **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"**. The ground for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Y) whereby the sole reason for rejection is mentioned to be **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"**. The bare perusal of the EDC Note dated 22.01.2023 (Annexure-Z) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground that the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 needs to be determined. Accordingly, we shall appraise the material placed on file to determine whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 or not in the later part of this order.

21. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. I-86 as per the policy guidelines issued by DDA.

22. As per our discussion above, the bare perusal of the EDC Note dated 22.01.2023 (Annexure-Z) shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. I-86 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently on the ground floor of the said Jhuggi and using it for residential purposes is concerned but her claim was rejected on the sole ground that the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one"

9.10.2024 9/10/2024 9/10/2024

out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit on the ground floor of the double storey Jhuggi No. I-86 except that she was allegedly not having all the requisite documents.

23. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photograph/video clips, about the existence of the double storey Jhuggi No. I-86. Thus the statement of the Appellant/Claimant as well as the survey records/ photograph/video clips has duly proved that the double storey Jhuggi No. I-86 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and Badami W/o Suraj along with her family is living on the first floor of the double storey Jhuggi No. I-86 and further she had not sought allotment from DDA against the first floor of the said Jhuggi No. I-86 whereas the Appellant/Claimant along with her family is living on the ground of the double storey Jhuggi No. I-86 and the same has been used by her for residential purposes.

24. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. I-86 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the ground floor of the double storey Jhuggi No. I-86 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the ground floor of the said double storey Jhuggi.

25. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the ground floor of the said double storey Jhuggi No. I-86 as per the policy guidelines issued by DDA.

26. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The

9.10.2024 9/10/2024 9/10/2024

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.

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

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

9.10.2024 Dhawat 9/10/2024 9/10/2024

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."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

9.10.2024 9/10/2024 9/10/2024

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

9.10.2024 9/10/2024 9/10/2024

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

9.10.2024 S/Rawat 9/10/2024 9/10/2024

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

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

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

9.10.2024 9/10/2024 9/10/2024

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

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

9.10.2024 9/10/2024 9/10/2024

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

44. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024

the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

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

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

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

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

9-10-2024 9/10/2024 9/10/2024

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

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

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

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

50. It is pointed out that we have already held that the double storey Jhuggi No. I-86 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the ground floor of the double storey Jhuggi No. I-86 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the ground floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

51. It is also pointed out that we have already held that the bare perusal of the EDC Note dated 22.01.2023 (Annexure-Z) shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. I-86 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently on the ground floor of the said Jhuggi and using it for residential purposes is concerned but her claim was rejected on the sole ground that the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before

9.10.2024 9/10/2024 9/10/2024

01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

52. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the ground floor of the said double storey Jhuggi No. I-86 as per the policy guidelines issued by DDA.

53. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-W), Aadhar Card (Annexure-B), Letter F. No. AERO/AC-17/2024/191 dated 27.05.2024 (Annexure-R) of AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-S), Voter List of the year 2013 (Annexure-T), Voter List of the year 2014 (Annexure-U) and Voter List of the year 2015 (Annexure-V) in support of her claim.

54. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-Z, in support of her claim. The first Voter ID Card No. JPF 0686477 (Annexure-A) has been issued issued on 10.06.2002 and the second Voter ID Card No. JPF 0686477 (Annexure-W) has been issued issued on 05.05.2024 and both have been issued on the address of the Jhuggi No. I-86. Furthermore, the Appellant/Claimant has tendered her Aadhar Card (Annexure-B) bearing No. 9545 8773 3452 and it has been issued on 16.09.2013 on the address of the Jhuggi No. I-86. Furthermore, the Letter F. No. AERO/AC-17/2024/191 dated 27.05.2024 (Annexure-R) of AERO, AC-17, Wazirpur shows that the Voter ID Card No. JPF 0686477 (Annexure-A) is a valid document as per the records of the Election Commission and further this Voter ID Cards has been duly reflected in the Voter List of the years from 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 864 in the Voter List of the year 2012 (Annexure-S), at Sl. No. 864 in the Voter List of the year 2013 (Annexure-T), at Sl. No. 1079 in the Voter List of the year 2014 (Annexure-U) and at Sl. No. 1148 in the Voter List of the year 2015 (Annexure-V) and further, in all the Voter lists (Annexure-S to Annexure-V), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0686477 (Annexure-A). Furthermore, in all the documents (Annexure-A, Annexure

9.10.2024 9/10/2024 9/10/2024

B and Annexure-S to Annexure-W) the address of the Appellant/Claimant is mentioned to be Jhuggi No. I-86.

55. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-W) and both are bearing the same number i.e., JPF 0686477 and have been issued on the address bearing Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar regarding which she is claiming allotment from DDA. The first Voter ID Card (Annexure-A) has been issued on 10.06.2002, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card (W) has been issued on 05.05.2024. Furthermore, the Appellant/Claimant has tendered her Aadhar Card (Annexure-B) bearing No. 9545 8773 3452 and it has been issued on 16.09.2013 on the address of the Jhuggi No. I-86.

56. The Appellant/Claimant has further stated that the Election Commission had cancelled the "black & white series" and in its place it has issued new "colour series" of Voter ID Card and accordingly she had got the second Voter ID Card No. JPF 0686477 (Annexure-W) issued on 05.05.2024 in place of first Voter ID Card No. JPF 0686477 (Annexure-A) issued on 10.06.2002. Therefore, the Appellant/Claimant has no role to play in issuance of two Voter ID Cards. Hence, this explains the reason for the Appellant/Claimant having got the second Voter ID Card No. JPF 0686477 dated 05.05.2024 (Annexure-W) issued when she was already having the first Voter ID Card No. JPF 0686477 dated 10.06.2002 (Annexure-A) on the same address bearing Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar regarding which she is claiming allotment from DDA. On the other hand, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar from 10.06.2002 (the date of issuance of the first Voter ID Card No. JPF 0686477 - Annexure-A) to 05.05.2024 (the date of issuance of the second second Voter ID Card No. JPF 0686477 - Annexure-W).

57. Furthermore, the Letter F. No. AERO/AC-17/2024/191 dated 27.05.2024 (Annexure-R) of AERO, AC-17, Wazirpur also shows that the Voter ID Card No. JPF 0686477 (Annexure-A & Annexure-W) is a valid document as per the records of the Election Commission and further this Voter ID Cards has been duly reflected in the Voter List of the years from 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 864 in the Voter List of the year 2012 (Annexure-S), at Sl. No. 864 in the Voter List of the year 2013 (Annexure-T), at Sl. No. 1079 in the Voter List of the year 2014 (Annexure-U) and at Sl. No. 1148 in the Voter List of the year 2015 (Annexure-V) and further, in all the Voter lists (Annexure-S to

9.10.2024 9/10/2024 9/10/2024

Annexure-V), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0686477 ((Annexure-A & Annexure-W). Furthermore, in all the documents (Annexure-A, Annexure-B and Annexure-S to Annexure-W) the address of the Appellant/Claimant is mentioned to be Jhuggi No. I-86 and regarding that the Appellant/Claimant has been claiming allotment from DDA.

58. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-86 regarding which she has been claiming allotment from DDA and further her name also appears in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015).

59. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because her name does not appear in the year of survey, i.e., 2020 (because as per the survey records placed on file survey/videography was conducted on 18.03.2020) even though she was having a valid Voter ID 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.

60. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

(iv) in any year if such revision has been directed by the Election Commission.

61. Therefore, the reasons for not tendering the Voter List of the year 2020 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the year 2020 (year of survey) when it was not prepared/ available with the Election Commission.

62. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains the first Voter ID Card on 10.06.2002, before the cutoff date of 01.01.2015 whereas second Voter ID Card on 05.05.2024, after the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears in the voter list of the year's 2012 to 2015 but their name happened to be not appearing in the Voter List of the year 2020 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date

9.10.2024 Rawat 9/10/2024 9/10/2024

of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter list of the year 2020 even though they possess all the relevant documents, including a valid Voter Id Card on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2012 to 2015 and further all these documents in unequivocal terms shows that they have been continuously living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the year 2020 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the voter list of the year 2020 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No. JPF 0686477 dated 10.06.2002 (Annexure-A), which has been issued on the address of Jhuggi No. I-86 and Voter ID Card No. JPF 0686477 dated 05.05.2024 (Annexure-W), which has also been issued on the address of Jhuggi No. I-86. The Appellant/Claimant is also having the Aadhar Card (Annexure-B) bearing No. 9545 8773 3452 and it has been issued on 16.09.2013, much prior to the cutoff date of 01.01.2015 on the address of the Jhuggi No. I-86, Jailorwala Bagh, regarding which she is claiming allotment from DDA. Furthermore, the Letter F. No. AERO/AC-17/2024/191 dated 27.05.2024 (Annexure-R) of AERO, AC-17, Wazirpur also shows that the Voter ID Card No. JPF 0686477 (Annexure-A & Annexure-W) is a valid document as per the records of the Election Commission and further this Voter ID Cards has been duly reflected in the Voter List of the years from 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 864 in the Voter List of the year 2012 (Annexure-S), at Sl. No. 864 in the Voter List of the year 2013 (Annexure-T), at Sl. No. 1079 in the Voter List of the year 2014 (Annexure-U) and at Sl. No. 1148 in the Voter List of the year 2015 (Annexure-V) and further, in all the Voter lists (Annexure-S to Annexure-V), the number of the Voter ID Card

9.10.2024 9/10/2024 9/10/2024

of the Appellant/Claimant is mentioned to be JPF 0686477 ((Annexure-A & Annexure-W). Furthermore, in all the documents (Annexure-A, Annexure-B and Annexure-S to Annexure-W) the address of the Appellant/Claimant is mentioned to be Jhuggi No. I-86 and regarding that the Appellant/Claimant has been claiming allotment from DDA. This shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar from 10.06.2002 (the date of issuance of the first Voter ID Card No. JPF 0686477 - Annexure-A) to 05.05.2024 (the date of issuance of the second second Voter ID Card No. JPF 0686477 - Annexure-W)). Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-86 regarding which he has been claiming allotment from DDA and further his name also appears in the voter list of the year's 2012 to 2015.

63. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

64. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as*

9.10.2024 9/10/2024 9/10/2024

produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."

"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the

9.10.2024 9/10/2024 9/10/2024

documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

65. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

66. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having a valid Voter ID Card & also a Aadhar Card on the cutoff date of 01.01.2015 and further she possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then her claim can not be rejected by taking hyper technical view especially when she was having a valid Voter ID Card No. JPF 0686477 (Annexure-A & Annexure-W) & Aadhar Card No. 9545 8773 3452 dated 16.09.2013 (Annexure-B) on the cutoff date of 01.01.2015 and further her name also appears continuously in the Voter Lists from the years 2012 to 2015 (Annexure-S to Annexure-V) and all the documents have been issued on the address of Jhuggi No. I-86 regarding which she is claiming allotment from DDA and further she as well her family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

67. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. I-86 since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lend support to the claim put forward by the Appellant/Claimant.

68. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-C & Annexure-E), Aadhar Card (Annexure-D) & PAN Card (Annexure-H) of her husband Ram Bihari in support of her claim.

9.10.2024 9/12/2024 9/12/2024

69. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-C to Annexure-E and Annexure-H, in support of her claim. Both the Voter ID Cards (Annexure-C & Annexure-E) of her husband Ram Bihari are bearing the same number i.e., JPF 0676171 and have been issued on the address of Jhuggi No. I-86 and first (Annexure-C) has been issued on 06.06.2002 and the second (Annexure-E) on 03.07.2023. The Aadhar Card No. 5164 6325 4293 (Annexure-D) of her husband Ram Bihari has been issued on the address of Jhuggi No. I-86. Furthermore, the name of her husband Ram Bihari also appears at Sl. No. 863 in the Voter List of the year 2012 (Annexure-S), at Sl. No. 863 in the Voter List of the year 2013 (Annexure-T), at Sl. No. 1078 in the Voter List of the year 2014 (Annexure-U) and at Sl. No. 1147 in the Voter List of the year 2015 (Annexure-V). Furthermore, in all the Voter Lists (Annexure-S to Annexure-V) the number of the Voter ID Card of her husband Ram Bihari is mentioned to be JPF 0676171 (Annexure-C) and furthermore, in all the documents (Annexure-C to Annexure-E and Annexure-S to Annexure-V) the address of Ram Bihari is mentioned to be Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA.

70. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-C & Annexure-E) of her husband Ram Bihari and both are bearing the same number i.e., JPF 0676171 and have been issued on the address of Jhuggi No. I-86. The first Voter ID Card (Annexure-C) has been issued on 06.06.2002, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card (E) has been issued on 03.07.2023. The Appellant/Claimant has tendered Aadhar Card No. 5164 6325 4293 (Annexure-D) of her husband Ram Bihari and it has been issued on the address of Jhuggi No. I-86. Furthermore, the name of her husband Ram Bihari also appears at Sl. No. 863 in the Voter List of the year 2012 (Annexure-S), at Sl. No. 863 in the Voter List of the year 2013 (Annexure-T), at Sl. No. 1078 in the Voter List of the year 2014 (Annexure-U) and at Sl. No. 1147 in the Voter List of the year 2015 (Annexure-V). Furthermore, in all the Voter Lists (Annexure-S to Annexure-V) the number of the Voter ID Card of her husband Ram Bihari is mentioned to be JPF 0676171 (Annexure-C) and furthermore, in all the documents (Annexure-C to Annexure-E and Annexure-S to Annexure-V) the address of Ram Bihari is mentioned to be Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA.

71. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-C & Annexure-E) of her husband Ram Bihari and both are bearing the same number i.e.,

9.10.2024 Jhawat 9/10/2024 9/10/2024

JPF 0676171 and have been issued on the address bearing Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar regarding which the Appellant/Claimant is claiming allotment from DDA. Thus, the issuance of two Voter ID Cards shows that the Appellant/Claimant & her husband Ram Bihari have been continuously living in Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar from 06.06.2002 (the date of issuance of the first Voter ID Card No. JPF 0676171 - Annexure-C) to 03.07.2023 (the date of issuance of the second second Voter ID Card No. JPF 0676171 - Annexure-E).

72. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-F), the Passbook of PNB (Annexure-G), three Ration Cards (Annexure- I to Annexure-K), Voter ID Card No. WHC 1811685 (Annexure-L), Aadhar Card (Annexure-M) & PAN Card (Annexure-N) of her son Suraj, the Passbook of PNB (Annexure-O), Aadhar Card (Annexure-P) & PAN Card (Annexure-Q) of her son Rana.

73. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-F, Annexure-G and Annexure-I to Annexure-Q, in support of her claim. The Electricity Bill (Annexure-F) shows that the electricity connection has been taken by her husband Ram Bihari on 15.04.2005 on the address of the Jhuggi No. I-86. The Passbook of PNB (Annexure-G) shows that her husband Ram Bihari had opened the account on the address of the Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA on 26.09.1998. The Appellant/Claimant has tendered three Ration Cards (Annexure- I to Annexure-K). The first Ration Card No. BPL 53220411 (Annexure-I) has been issued in favour of her husband Ram Bihari on 07.08.2002. The second Ration Card No. BPL53220208 (Annexure-J) has been issued in favour of her husband Ram Bihari on 01.08.2008 and further, the name of the Appellant/Claimant is mentioned. The third Ration Card No. 077002576889 (Annexure-K) has been issued on the address of the Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA in favour of the Appellant/Claimant and the name of her husband is mentioned but the date of issuance is not mentioned. The Voter ID Card No. WHC 1811685 (Annexure-L) of his son Suraj has been issued on 28.04.2012. Furthermore, the Aadhar Card No. 9483 8649 8011 (Annexure-M) of her son, Suraj has been issued on 14.01.2013. Furthermore, both the documents (Annexure-L & Annexure-M) have been issued on the address of I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of PNB (Annexure-O) shows that her son, Suraj, had opened the account on 01.08.2011 on the

9.10.2024 9/10/2024 9/10/2024

address of Jhuggi No. I-86. The Aadhar Card No. 5447 5827 4076 (Annexure-P) of her son Rana has been issued on the address of the Khusinagar.

74. It is pointed out that the Electricity Bill (Annexure-F) shows that the electricity connection has been taken by her husband Ram Bihari on 15.04.2005, much prior to the cutoff date 01.01.2015 and further, this connection has been taken on the address of the Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of PNB (Annexure-G) shows that her husband Ram Bihari had opened the account on the address of the Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA on 26.09.1998, much prior to the cutoff date 01.01.2015. The Appellant/Claimant has tendered three Ration Cards (Annexure- I to Annexure-K). The first Ration Card No. BPL 53220411 (Annexure-I) has been issued in favour of her husband Ram Bihari on 07.08.2002, much prior to the cutoff date 01.01.2015. The second Ration Card No. BPL53220208 (Annexure-J) has been issued in favour of her husband Ram Bihari on 01.08.2008, much prior to the cutoff date 01.01.2015 and further, the name of the Appellant/Claimant is mentioned. The third Ration Card No. 077002576889 (Annexure-K) has been issued on the address of the Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA in favour of the Appellant/Claimant and the name of her husband is mentioned and further, the date of issuance is not mentioned. The Electricity Bill (Annexure-F) and the joint Ration Cards (Annexure- I to Annexure-K) also corroborates that the entire family was living jointly in Jhuggi No. I-86. The Appellant/Claimant has also tendered Voter ID Card No. WHC 1811685 (Annexure-L) of his son Suraj, it has been issued on 28.04.2012, much prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has tendered Aadhar Card No. 9483 8649 8011 (Annexure-M) of her son, Suraj and it has been issued on 14.01.2013, much prior to the cutoff date 01.01.2015. Furthermore, both the documents (Annexure-L & Annexure-M) have been issued on the address of I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA. It is also pointed out that the Passbook of PNB (Annexure-O) shows that her son, Suraj, had open the account on 01.08.2011, much prior to the cutoff date 01.01.2015 and further, the bank account has been opened on the address of Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Appellant/Claimant has also Aadhar Card No. 5447 5827 4076 (Annexure-P) of her son Rana but it is pointed out that it has been issued on the address of the Khusinagar and accordingly, this document is not relevant. However, the

9-10-2024 9/10/2024 9/10/2024

Appellant/Claimant as well as her husband Ram Bihari and sons, Sooraj & Rana, are having their respective Voter ID Cards, Aadhar Cards as well as they are also maintaining Bank accounts and also having joint Ration Cards corroborates that the Appellant/Claimant along with her husband Ram Bihari & sons have been living jointly on the ground floor of the double storey Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar.

75. The Appellant/Claimant has tendered her documents and also of her family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Electricity Bill, Bank Passbooks and Ration Cards etc. and all these documents have been issued from 2002 to 2023 and it accordingly amply establishes that she as well as her family members have been living jointly on the ground floor of the double storey Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

76. In view of the matter as per our discussion above, the material placed on file supports the claim of the Appellant/ Claimant and shows that the Appellant/ Claimant fulfils the eligibility criteria as per the policy guidelines issued by DDA as under: -

(a) The material placed on file shows that the Appellant/ Claimant was living separately & independently on the ground floor of Jhuggi No. I-86, which constitute single dwelling unit and further as per our discussion above, the documents, Annexure-A to Annexure-Z, shows that the Appellant/Claimant was having a valid Voter ID Card No. JPF 0686477 dated 10.06.2002 (Annexure-A), which is issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. I-86 regarding which he is claiming allotment from DDA. Further, the Appellant/Claimant was having second valid Voter ID Card No. JPF 0686477 dated 05.05.2024 (Annexure-W), which has been issued on the address of Jhuggi No. I-86 regarding which she is claiming allotment from DDA. The reasons for having two Voter ID Cards (Annexure-A & Annexure-W) bearing the same numbers, namely JPF 0686477, has been well explained in this case. Furthermore, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar from 10.06.2002 (the date of issuance of the first Voter ID Card No. JPF 0686477 - Annexure-A) to 05.05.2024 (the date of issuance of the second second Voter ID Card No. JPF 0686477 - Annexure-W). The Appellant/Claimant is also having the Aadhar Card No. 9545 8773 3452 (Annexure-B),

9.10.2024 9/10/2024 9/10/2024

which has also been issued on the address of the Jhuggi No. I-86, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further it is issued on 16.09.2013, much prior to the cutoff date of 01.01.2015. Furthermore, the Letter F. No. AERO/AC-17/2024/191 dated 27.05.2024 (Annexure-R) of AERO, AC-17, Wazirpur also shows that the Voter ID Card No. JPF 0686477 (Annexure-A & Annexure-W) is a valid document as per the records of the Election Commission and further this Voter ID Cards has been duly reflected in the Voter List of the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the year 2020 (year of survey). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 864 in the Voter List of the year 2012 (Annexure-S), at Sl. No. 864 in the Voter List of the year 2013 (Annexure-T), at Sl. No. 1079 in the Voter List of the year 2014 (Annexure-U) and at Sl. No. 1148 in the Voter List of the year 2015 (Annexure-V) and further, in all the Voter lists (Annexure-S to Annexure-V), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF0686477 (Annexure-A). Furthermore, in all the documents (Annexure-A, Annexure-B and Annexure-S to Annexure-W) the address of the Jhuggi No. I-86 is mentioned and regarding which the Appellant/Claimant has been claiming allotment from DDA.

(b) The material placed on file also shows that the Appellant/Claimant has also tendered two Voter ID Cards (Annexure-C & Annexure-E), Aadhar Card (Annexure-D) & PAN Card (Annexure-H) of her husband Ram Bihari. It is pointed out that the Appellant/Claimant has tendered two Voter ID Cards (Annexure-C & Annexure-E) of her husband Ram Bihari and both are bearing the same number i.e., JPF 0676171 and have been issued on the address of Jhuggi No. I-86. The first Voter ID Card (Annexure-C) has been issued on 06.06.2002, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card (E) has been issued on 03.07.2023. Moreover, the issuance of two Voter ID Cards shows that the Appellant/Claimant & her husband Ram Bihari have been continuously living in Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar from 06.06.2002 (the date of issuance of the first Voter ID Card No. JPF 0676171 - Annexure-C) to 03.07.2023 (the date of issuance of the second second Voter ID Card No. JPF 0676171 - Annexure-E). The Appellant/Claimant has tendered Aadhar Card No. 5164 6325 4293 (Annexure-D) of her husband Ram Bihari and it has been issued on the address of Jhuggi No. I-86. Furthermore, the name of her husband Ram Bihari also appears at Sl. No. 863 in the Voter List of the year 2012 (Annexure-S), at Sl. No. 863 in the Voter List of the year 2013

9.10.2024 9/10/2024 9/10/2024

(Annexure-T), at Sl. No. 1078 in the Voter List of the year 2014 (Annexure-U) and at Sl. No. 1147 in the Voter List of the year 2015 (Annexure-V). Furthermore, in all the Voter Lists (Annexure-S to Annexure-V) the number of the Voter ID Card of her husband Ram Bihari is mentioned to be JPF 0676171 (Annexure-C) and furthermore, in all the documents (Annexure-C to Annexure-E and Annexure-S to Annexure-V) the address of Ram Bihari is mentioned to be Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA.

(c) The material placed on file further shows that the Electricity Bill (Annexure-F) shows that the electricity connection has been taken by her husband Ram Bihari on 15.04.2005, much prior to the cutoff date 01.01.2015 and further, this connection has been taken on the address of the Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of PNB (Annexure-G) shows that her husband had opened the account on the address of the Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA on 26.09.1998, much prior to the cutoff date 01.01.2015. The Appellant/Claimant has tendered three Ration Cards (Annexure- I to Annexure-K). The first Ration Card No. BPL 53220411 (Annexure-I) has been issued in favour of her husband Ram Bihari on 07.08.2002, much prior to the cutoff date 01.01.2015. The second Ration Card No. BPL53220208 (Annexure-J) has been issued in favour of her husband Ram Bihari on 01.08.2008, much prior to the cutoff date 01.01.2015 and further, the name of the Appellant/Claimant is mentioned. The third Ration Card No. 077002576889 (Annexure-K) has been issued on the address of the Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA in favour of the Appellant/Claimant and the name of her husband is mentioned and further, the date of issuance is not mentioned. The Electricity Bill (Annexure-F) and the joint Ration Cards (Annexure- I to Annexure-K) also corroborates that the entire family was living jointly in Jhuggi No. I-86.

(d) The material placed on file further shows that the Appellant/Claimant has also tendered Voter ID Card No. WHC 1811685 (Annexure-L) of her son Suraj and it has been issued on 28.04.2012, much prior to the cutoff date 01.01.2015. Furthermore, the Appellant/Claimant has tendered Aadhar Card No. 9483 8649 8011 (Annexure-M) of her son, Suraj, and it has been issued on 14.01.2013, much prior to the cutoff date 01.01.2015. Furthermore, both the documents (Annexure-L & Annexure-M) have been

issued on the address of I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA. It is also pointed out that the Passbook of PNB (Annexure-O) shows that her son, Suraj, had open the account on 01.08.2011, much prior to the cutoff date 01.01.2015 and further, the bank account has been opened on the address of Jhuggi No. I-86 regarding which the Appellant/Claimant has been claiming allotment from DDA.

(e) The material placed on file further shows that the Appellant/Claimant as well as her husband Ram Bihari and sons Suraj & Rana are having their respective Voter ID Cards, Aadhar Cards and further they are also maintaining Bank accounts and also having joint Ration Cards on the address of Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar and it corroborates that the Appellant/Claimant along with her husband Ram Bihari & sons have been living jointly on the ground floor of the double storey Jhuggi No. I-86, Jailorwala Bagh, Ashok Vihar.

(f) The material placed on file shows that the Electricity Bill (Annexure-F), the Passbooks of PNB (Annexure-G & Annexure-O) and the Ration Cards (Annexure-I to Annexure-K) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. I-86 since long and much prior to the Cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

77. As already pointed out above DDA has furnished the survey records along with photograph/video clips pertaining to the Jhuggi No. I-86 and in that video clips the Jhuggi No. I-86 is clearly seen to be a double storey structure and further the room & kitchen on the ground floor of the said Jhuggi of the Appellant/ Claimant is clearly seen. The Jhuggi of the Appellant/ Claimant on the ground floor of Jhuggi No. I-86, which constitute single dwelling unit, was also found to exist by the survey team as reflected in the EDC Note dated 22.01.2023 (Annexure-Z). It is pertinent to point out that DDA has not disputed about the existence of Jhuggi No. I-86 of the Appellant/Claimant but her claim was rejected wrongly by the EDC on the sole ground **"Second documents: JJ dwellers fail to submit one of the**

9.10.2024 Jhawat 9/10/2024 9/10/2024

12 documents issued before 01.01.2015 as prescribed" inspite of the fact that as per our discussion above it has been found by us that the Appellant/Claimant has claimed allotment against the ground floor of Jhuggi No. I-86, which constitute single dwelling unit and further she was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears continuously in the voter list of the year's 2012 to 2015 and further she was having second document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but all these relevant facts were not duly considered by EDC.

78. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 87 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-83/46.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant Karmi Devi @ Kasmi Devi @ Kalmi Devi W/o Ram Bihari, in respect of the ground floor of double storey Jhuggi No. I- 86, which constitute single dwelling unit, Jailorwala Bagh, Ashok Vihar.

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

9-10-2024 9/10/2024 9/10/2024

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

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

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

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

Appeal No: 15 of 2024

Date of Institution: 03.05.2023

Date of Order: 10.10.2024

Present: Appellant/ Claimant Subedar S/o Phool Chand

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. G-24/N-207/121, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-24/N-207/121 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/5 dated

10.10.2024 Mawat 10/10/2024

01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 15 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of Ram Asre, who is the son-in-law, of the Appellant/Claimant, has been recorded before us on 04.10.2024. He 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 Ram Asre, who is the son-in-law, of the Appellant/Claimant, as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-24/N-207/121 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. G-24/N-207/121 as per the policy guidelines issued by DDA.

8. The statement of Ram Asre, who is the son-in-law, of the Appellant/Claimant, has been recorded before us on 04.10.2024 wherein he has stated that his father-in-law, Subedar, is ill and he has gone to his native village in Azamgarh, Uttar Pradesh and accordingly he cannot come present in person before us to make statement and accordingly his statement is recorded in support of the claim of his father-in-law, Subedar (Appellant/Claimant).

10.10.2024 Rawat 10/10/2024 10/10/2024

9. Ram Asre has stated that his in-laws, Subedar & Sanjit, are having three sons; Chote Lal, Mithai Lal & Gagandeep and two daughters; Sarita & Kiran. All the children except Gagandeep are married. Kiran is married with Ramesh and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Chote Lal is married with Dhanmani and having three children. Mithai Lal is married with Seema and having three children. Savita is married with Ram Asra and having four children.

10. Ram Asre has stated that his in-laws; Subedar & Sanjit, are having a single storey Jhuggi No. N-207/121, Jailorwala Bagh, Ashok Bihar and having roof made with wooden planks. His in-laws; Subebar & Sanjit, along with the family of their sons; Chotelal & Mithailal, and unmarried son Gagandeep as well as the family of their daughter Sarita are living in the said Jhuggi No. N-207/121. They are having a joint kitchen on the ground floor. They have placed a Tirpal on the roof of the said Jhuggi and in the night all the women along with the children sleep on the ground floor whereas all the menfolk sleep on the roof under the Tirpal. Further, they also use the iron ladder of their neighbor, which is placed outside in the gali for going to the upper floor of their Jhuggi.

11. Ram Asre has stated that his wife Sarita has sought alternative allotment from DDA against the first floor of the said Jhuggi No. N-207/121 but her claim has been rejected by Eligibility Determination Committee and accordingly, aggrieved by the same, she has filed the present Appeal No. 189 of 2024 before the Appellate Authority for redressal and the same is pending there.

12. Ram Asre has stated that his father-in-law Subedar has also sought alternative allotment from DDA against the ground floor of the Jhuggi No. G-24/N-207/121 but his claim has been rejected by Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the upper floor and further his Voter ID Card could not be verified inspite of the fact that he has admittedly sought claim from DDA against the ground floor of the Jhuggi No. G-24/N-207/121 and further he is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 15 of 2024 before the Appellate Authority for redressal. Ram Asre has tendered documents, Annexure- A to Annexure-J and prayed that DDA be directed to make allotment in favour of his father-in-law Subedar (Appellant/Claimant).

13. It is pointed out that both the appeals bearing Appeal No. 15 of 2024 and 189 of 2024 shall

10.10.2024 Rawat 10/10/2024 10/10/2024

be decided independently on their individual merits.

14. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. G-24(N-207/121). The video was played before Ram Asre, who is the son-in-law, of the Appellant/Claimant when his statement was recorded before us on 04.10.2024 wherein he has stated that the video clip pertains to the ground floor of the said Jhuggi in which the Jhuggi is clearly seen from outside to be a pucca single storey structure and having roof made with wooden planks and further, his mother-in-law Sanjit Devi is seen and getting the survey conducted on the ground floor of the Jhuggi and further, Sanjit Devi is seen holding a slate in her hand on which **"G-24 (N-207/121 SANJIT DEVI (NOT IN LIST) G.F"** is clearly seen to have been written. Furthermore, Ram Asre has categorically admitted that his wife Sarita has not got the survey/videography conducted on the first floor of the Jhuggi regarding which she is claiming allotment from DDA.

15. The admission of Ram Asre, who is the son-in-law, of the Appellant/Claimant, is a clincher piece of evidence thereby showing that the Jhuggi No. G-24/N-207/121 of his in-laws is a single storey structure having roof made with wooden planks. Further, placing of Tirpal on the roof made with wooden plank and using the same for sleeping in the night by the menfolk due to space scarcity does not make the said structure to be a double storey structure especially when Ram Asre has specifically stated that the entire family was having a joint kitchen and furthermore, they were using the iron ladder of the neighbor for going to the upper floor in order to sleep under the Tirpal on the first floor. Thus placing of Tirpal over the roof made with wooden planks shows that it is temporary structure especially when no ladder is placed by the family of the Appellant/Claimant and using the ladder of the neighbor shows that the family intended to use it as temporary & stop gap arrangement as a Night Shelter and accordingly this structure does not come under the definition of dwelling unit and the Jhuggi of his in-laws cannot be said to be double storey structure. This shows that the Jhuggi No. G-24/N-207/121 for all practical purposes remains to be a single storey structure, which is a single dwelling unit of his in-laws and the Appellant/Claimant along with his family is living jointly in the said Jhuggi.

16. There is nothing to disbelieve the statement of Ram Asre made on behalf of his father-in-law, Subedar (Appellant/Claimant) on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. G-24/N-207/121. Thus the statement of Ram Asre as well as the survey records has duly

10.10.2024 10/10/2024

proved that the single storey Jhuggi No. G-24/N-207/121 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

17. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. G-24/N-207/121 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

18. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. G-24/N-207/121 as per the policy guidelines issued by DDA.

19. Ram Asre, who is the son-in-law, of the Appellant/Claimant, has tendered documents, Annexure- A to Annexure-J and prayed that DDA be directed to make allotment in favour of his father-in-law Subedar (Appellant/Claimant).

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.

10.10.2024 10/10/2024 10/10/2024

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

10.10.2024 10/10/2024 10/10/2024

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

10.10.2024 10/10/2024 10/10/2024

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

10.10.2024 Mawat 10/10/2024 10/10/2024

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

10.10.2024 10/10/2024

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

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

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

10.10.2024 10/10/2024

Improvement Board and others" 2017 SCC OnLine Del 9715.

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

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

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

10.10.2024 10/10/2024 10/10/2024

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

10.10.2024 10/10/2024

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

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

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

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

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

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

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

10.10.2024 10/10/2024

43. It is pointed out that we have already held that the single storey Jhuggi No. G-24/N-207/121 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. G-24/N-207/121 as per the policy guidelines issued by DDA.

45. Ram Asre has tendered the Voter ID Card No. WHC 2163284 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C) & Voter List of the year 2023 (Annexure-J) in support of claim of his father-in-law Subedar.

46. It is pointed out that the Voter ID Card No. WHC 2163284 (Annexure-A) of Subedar has been issued on 14.07.2015, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any Voter List of the year 2012 to 2015 does not arise. Further, the Aadhar Card (Annexure-B) bearing No. 7846 5470 3893 of the Appellant/Claimant Subedar has been tendered but the date of issuance is not mentioned in this document. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 241 in the Voter List of the year 2023 (Annexure-J). However, the Voter ID Card No. WHC 2163284 (Annexure-A) as well as Voter List of the year 2023 (Annexure-J) pertain to the post cutoff period of 01.01.2015 and accordingly, the same are not material to determine the eligibility of the Appellant/Claimant.

47. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-24/N-207/121, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further, his name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and

10.10.2024 G/Mawat 10/10/2024 10/10/2024

2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

48. Ram Asre has also tendered the Voter ID Card No. WHC 3660081 (Annexure-D) & Aadhar Card (Annexure-E) of Sanjit Devi, Passbook of SBI (Annexure-F), Electricity Bill (Annexure-G) & two Ration Cards (Annexure-H & Annexure-I) in support of the claim of the Appellant/Claimant.

49. It is pointed out that the Voter ID Card bearing No. WHC 3660081 (Annexure-D) of Sanjit Devi, who is wife of the Appellant/Claimant Subedar, has been issued on 24.05.2023, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any Voter List of the year 2012 to 2015 does not arise. The material placed on file accordingly shows that neither the Appellant/Claimant nor his wife Sanjit Devi was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-24/N-207/121, regarding which he is claiming allotment from DDA nor their names appear in any of the Voter Lists from 2012 to 2015. Furthermore, the Aadhar Card (Annexure-E) of his wife Sanjit Devi is bearing No. 8744 0502 4771 and the date of issuance is not mentioned in this document. The Passbook of SBI (Annexure-F) shows that the Appellant/Claimant had opened the account on 31.05.2013 and the Electricity Bill (Annexure-G) shows that the electricity connection has been taken by the Appellant/Claimant Sudebar on 08.03.2009. Further, the old Ration Card No. BPL 53220438 (Annexure-H) has been issued in favour of the Appellant/Claimant in the year 2008 but the date & month of issuance are not legible and furthermore, the name of family members of the Appellant/Claimant is mentioned therein. Further, the new Ration Card (Annexure-I) bearing No. 077002577089 has been issued in favour of Sarita who is daughter of the Appellant/Claimant and the name of her husband and other family members is mentioned but the name of the Appellant/Claimant is not mentioned in the said document and accordingly, this documents is not relevant. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-24/N-207/121, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/

10.10.2024 10/10/2024

Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

51. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-24/N-207/121, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-J, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

52. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress

10.10.2024 10/10/2024 10/10/2024

material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/5 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

10.10.2024 10/10/2024 10/10/2024

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

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

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

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

Appeal No: 189 of 2024

Date of Institution: 18.07.2023

Date of Order: 10.10.2024

Present: Appellant/ Claimant Sarita D/o Subedar W/o Ram Asre

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. N-207/121, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. N-207/121 was not found to exist and further she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No.

10.10.2024 Rawat 10/10/2024

350-205/10.1 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 15 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 04.10.2024. 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. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-207/121 was not found to exist and further she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Jhuggi Locked – Survey entry frozen as no data available"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. N-207/121 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Sarita has been recorded before us on 04.10.2024 wherein she has stated that her parents, Subedar & Sanjit, are having three sons; Chote Lal, Mithai Lal & Gagandeep and two daughters; Sarita & Kiran. All the children except Gagandeep are married. Kiran is married with Ramesh and she is living in her matrimonial home in Azamgarh, Uttar Pradesh. Chote Lal is married with Dhanmani and having three

10.10.2024 10/10/2024

children. Mithai Lal is married with Seema and having three children. Savita (Appellant/Claimant) is married with Ram Asra and having four children.

9. The Appellant/Claimant has stated that her parents; Subedar & Sanjit, are having a single storey Jhuggi No. N-207/121, Jailorwala Bagh, Ashok Bihar and having roof made with wooden planks. Her parents; Subebar & Sanjit, along with the family of their sons; Chotelal & Mithailal, and unmarried son Gagandeep as well as the family of their daughter; Sarita (Appellant/Claimant) are living in the said Jhuggi No. N-207/121. They are having a joint kitchen on the ground floor. They have placed a Tirpal on the roof of the said Jhuggi and in the night all the women along with the children sleep on the ground floor whereas all the menfolk sleep on the roof under the Tirpal. Further, they also use the iron ladder of their neighbor, which is placed outside in the gali for going to the upper floor of their Jhuggi.

10. The Appellant/Claimant has stated that her father Subedar has sought alternative allotment from DDA against the ground floor of the Jhuggi No. G-24/N-207/121 but his claim has been rejected by Eligibility Determination Committee and accordingly, aggrieved by the same, he has filed the Appeal No. 15 of 2024 before the Appellate Authority for redressal and the same is pending there.

11. The Appellant/Claimant has stated that she has sought alternative allotment from DDA against the first floor of the said Jhuggi No. N-207/121 but her claim has been rejected by Eligibility Determination Committee on the ground **"Jhuggi Locked – Survey entry frozen as no data available"** in spite of the fact that she has got the survey/photography conducted while standing on the ground floor of the Jhuggi of her parents but she has not got the videography conducted on the first floor of the said Jhuggi No. N-207/121 and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 19 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of her claim and prayed that DDA be directed to make allotment in her favour.

12. It is pointed out that both the appeals bearing Appeal No. 15 of 2024 and 189 of 2024 shall be decided independently on their individual merits.

13. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. G-24(N-207/121). The video was played before the Appellant/Claimant when her statement

10.10.2024 10/10/2024

was recorded before us on 04.10.2024 wherein she has stated that the video clip pertains to the ground floor of the said Jhuggi in which the Jhuggi is clearly seen from outside to be a pucca single storey structure and having roof made with wooden planks and further, her mother Sanjit Devi is seen and getting the survey conducted on the ground floor of the Jhuggi and further, Sanjit Devi is seen holding a slate in her hand on which **"G-24 (N-207/121 SANJIT DEVI (NOT IN LIST) G.F"** is clearly seen to have been written. Furthermore, the Appellant/Claimant has categorically admitted that she has not got the survey/videography conducted on the first floor of the Jhuggi regarding which she is claiming allotment from DDA.

14. The admission of the Appellant/Claimant is clincher piece of evidence as she has stated that she is living jointly with her parents and they are having joint kitchen on the ground floor and accordingly this shows that she was not living separately & independently on the first floor of the Jhuggi of her parents.

15. It is pointed out that the Appellant/Claimant had got herself photographed (Annexure-I) while standing outside the Jhuggi of her mother on the ground floor. This shows that the Appellant/Claimant was not living on the first floor of the Jhuggi No. G-24/N-207/121, which was allegedly bearing Jhuggi No. N-207/121 because had it been so, then Appellant/Claimant would have certainly got the survey/videography conducted on the first floor and furthermore, the photographs would have also been taken on the first floor and not on the ground floor. Moreover, the video clip prepared by the survey team of her mother Sanjit Devi and the photographs taken by the survey team of the present Appellant/Claimant Sarita establishes their presence at the time of survey of the Jhuggi No. G-24/N-207/121 of her parents and had the Appellant/Claimant living separately & independently on the first floor of the Jhuggi bearing Jhuggi No. N-207/121, then in that eventuality, her mother Sanjit Devi as well as the present Appellant/Claimant, would have requested the survey team to get the survey/videography/photography conducted on the first floor of the said Jhuggi No. N-207/121. Furthermore, as already pointed out, the statement of the Appellant/Claimant shows that the Jhuggi No. G-24/N-207/121 of her parents, is a single storey structure having roof made with wooden planks and the same is duly corroborated by the video clip prepared by the survey team of DDA and accordingly the Appellant/Claimant living on the first floor does not arise. Hence the question of any person living on the roof made with wooden planks does not arise as the same is not habitable. It seems that the Appellant/Claimant has

10.10.2024 10/10/2024

concocted a wrong & false story that she was living on the first floor of the said Jhuggi No. N-207/121 to gran allotment from DDA by hook or crook in spite of the fact that the survey records as well as the material placed on file and the video clip show that the said Jhuggi of her parents is a single storey structure and having roof made with wooden planks.

16. The admission of the Appellant/Claimant is a clincher piece of evidence thereby showing that the Jhuggi No. G-24/N-207/121 of her parents is a single storey structure having roof made with wooden planks. Further, placing of Tirpal on the roof made with wooden plank and using the same for sleeping in the night by the menfolk due to space scarcity does not make the said structure to be a double storey structure especially when the Appellant/Claimant has specifically stated that her family was having a joint kitchen and furthermore, they were using the iron ladder of the neighbor for going to the upper floor in order to sleep under the Tirpal on the first floor. Thus placing of Tirpal over the roof made with wooden planks shows that it is temporary structure especially when no ladder is placed by the family of the Appellant/Claimant and using the ladder of the neighbor shows that the family intended to use it as temporary & stop gap arrangement as a Night Shelter and accordingly this structure does not come under the definition of dwelling unit and the Jhuggi of her parents cannot be said to be double storey structure. Furthermore, the Appellant/Claimant has not got the survey conducted on the first floor but she had got the survey conducted while standing in the gali outside the Jhuggi of her parents. This shows that the Jhuggi No. G-24/N-207/121 for all practical purposes remains to be a single storey structure, which is a single dwelling unit of her parents and the Appellant/Claimant along with her family is living jointly with her parents in the said Jhuggi.

17. Accordingly, we have no hesitation in holding that the Jhuggi No. G-24/N-207/121 of the parents of the Appellant/ Claimant is single storey structure having roof made with wooden planks and it was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant has concocted a wrong & false story that she was living separately & independently on its first floor, which was allegedly bearing Jhuggi No. N-207/121 to grab allotment from DDA by hook or crook but she along with her family is living jointly with her parents Subebar & Sanjit, in their single storey Jhuggi No. G-24/N-207/121, therefore, the Appellant/Claimant is not eligible to claim alternative allotment as per policy guidelines issued by DDA.

10.10.2024 10/10/2024 10/10/2024

18. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the the first floor of Jhuggi No. G-24/N-207/121, which is allegedly bearing Jhuggi No. N-207/121, 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-I, 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 cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-205/10.1 dated 01.07.2023.

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

> **"Part-B**
> **<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.

10.10.2024 10/10/2024 10/10/2024

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.

10.10.2024 10/10/2024 10/10/2024

- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

10.10.2024 Rawat 10/10/2024 14/10/2024

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

10.10.2024 10/10/2024

cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

31. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card"

10.10.2024 10/10/2024 10/10/2024

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

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

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

10.10.2024 10/10/2024 10/10/2024

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

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

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

10.10.2024 10/10/2024 10/10/2024

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

39. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which

10.10.2024 10/10/2024 10/10/2024

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

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

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

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

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

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

10.10.2024 10/10/2024 10/10/2024

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

44. It is pointed out that we have already held that the Jhuggi No. G-24/N-207/121 of the parents of the Appellant/ Claimant is single storey structure having roof made with wooden planks and it was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant has concocted a wrong & false story that she was living separately & independently on its first floor, which was allegedly bearing Jhuggi No. N-207/121 to grab allotment from DDA by hook or crook but she along with her family is living jointly with her parents Subebar & Sanjit, in their single storey Jhuggi No. G-24/N-207/121, therefore, the Appellant/Claimant is not eligible to claim alternative allotment as per policy guidelines issued by DDA. But inspite of that the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of Jhuggi No. G-24/N-207/121, which is allegedly bearing Jhuggi No. N-207/121. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

45. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the the first floor of Jhuggi No. G-24/N-207/121, which is allegedly bearing Jhuggi No. N-207/121, as per the policy guidelines issued by DDA.

46. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2204039 (Annexure-A), Aadhar Card (Annexure-B) & PAN Card (Annexure-C) in support of her claim.

47. It is pointed out that the Voter ID Card No. WHC 2204039 of the Appellant/Claimant has been issued on 21.04.2016, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any Voter List of the year 2012 to 2015 does not arise. The Aadhar Card (Annexure-B) is bearing No. 2980 5043 6241 but the date of issuance is not mentioned in this document. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-207/121, Jailorwala Bagh, regarding which she is

10.10.2024 10/10/2024 10/10/2024

claiming allotment from DDA and further, her name also does not appear in the Voter Lists of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant is not entitled for claiming alternate allotment from DDA.

48. The Appellant/Claimant has tendered the Ration Card No. 077004384633 (Annexure-D) thereby showing that it has been issued in her favour on 08.09.2014 and the name of her husband and other family members has been mentioned. It is pointed out that the above-mentioned document is of no help to the Appellant/Claimant because this document does not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-207/121, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

49. The Appellant/Claimant has tendered the Voter ID Card No. WHC 2204062 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her husband Ram Asre as well as Passbook of Karnataka Bank (Annexure-H) in support of her claim.

50. It is pointed out that the Voter ID Card bearing No. WHC 2204062 (Annexure-E) of Ram Asre has been issued on 21.04.2016, much after the cutoff date of 01.01.2015 and accordingly, the question of his name appearing in any Voter List of the year 2012 to 2015 does not arise. The material placed on file accordingly shows that neither the Appellant/Claimant nor her husband Ram Asare was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-207/121, regarding which she is claiming allotment from DDA nor their names appear in any of the Voter Lists from 2012 to 2015. Furthermore, the Aadhar Card (Annexure-F) of her husband Ram Asre is bearing No. 9255 7426 2392 and the date of issuance is not mentioned in this document. The Passbook of Karnataka Bank (Annexure-H) shows that the Appellant/Claimant had opened the account but the date of opening the account is not mentioned therein. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-207/121, Jailorwala Bagh, regarding

10.10.2024 10/10/2024 10/10/2024

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

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

52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Jhuggi No. G-24/N-207/121 of the parents of the Appellant/ Claimant has been found to be single storey structure having roof made with wooden planks and it was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant has concocted a wrong & false story that she was living separately & independently on its first floor, which was allegedly bearing Jhuggi No. N-207/121 to grab allotment from DDA by hook or crook but she along with her family is living jointly with her parents Subebar & Sanjit, in their single storey Jhuggi No. G-24/N-207/121, therefore, the Appellant/Claimant is not eligible to claim alternative allotment as per policy guidelines issued by DDA and further the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. G-24/N-207/121, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not

10.10.2024 10/10/2024

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

53. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-205/10.1 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

10.10.2024 10/10/2024 10/10/2024

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

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

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

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

Appeal No: 105 of 2024

Date of Institution: 13.07.2023

Date of Order: 11.10.2024

Present: Appellant/ Claimant Phoola Devi W/o Vinod Kumar

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. I-88, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. I-88 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-Fresh/189 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the

11.10.2024 11/10/2024 11/10/2024

same, the present Appeal No. 105 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 10.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. I-88 was found to exist but it was found to be a case of double allotment against the same Jhuggi and further she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Dual allotment in place of one Jhuggi not permissible"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether it was a case of double allotment against the same Jhuggi and whether she is entitled to claim allotment against the Jhuggi No. I-88 as per the policy guidelines issued by DDA.

8. The statement of the Appellant / Claimant Phoola Devi has been recorded before us on

11.10.2024 S/Rawat 11/10/2024 11/10/2024

10.06.2024 wherein she has stated that her in-laws, Shyam Prasad & Rajwati, are having three sons; Vinod, Sunil & Anil. All the children are married. Anil is married with Bindu and having two children. Sunil is married with Manju and having two children; Himanshi & Mansi. Vinod is married with Phula Devi (Appellant/Claimant) and having four children; Arti, Vikas,Vivek & Puja.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar and it comprises of one room on the ground floor and two rooms on the first floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor.

Ground Floor of Jhuggi No. H-150

10. The Appellant/Claimant has stated that her in-laws, Shyam Prasad & Rajwati, along with the family of their son Anil, are living on the ground floor of the Jhuggi No. H-150 and regarding that, DDA has made allotment in favour of her mother-in-law Rajwati. These facts are not disputed by DDA.

First Room on The First Floor of Jhuggi No. H-150

11. The Appellant/Claimant has stated that Manju along with her husband Sunil and both the daughters; Himanshi & Mansi, is living in the first room on the first floor of the Jhuggi No. H-150 and regarding that Manju has sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee and accordingly, aggrieved by the same, she has filed the present Appeal No. 225 of 2024 before the Appellate Authority for redressal. These facts are not disputed by DDA.

Second Room on The First Floor of Jhuggi No. H-150

12. The Appellant/Claimant has stated that she along with her husband Vinod and all the four children; Arti, Vikas, Vivek & Puja, is living in the second room on the first floor of the Jhuggi No. H-150 and in order to claim alternative allotment against this Jhuggi, Vinod had got the survey conducted but afterwards, they have not proceeded with their claim against the first floor of the Jhuggi No. H-150.

Jhuggi No. I-88

13. The Appellant/Claimant has stated that she had purchased another Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar about 4-5 years ago from one Badrinath and they started living

11-10-2024 11/10/2024 11/10/2024

in Jhuggi No. I-88 as well as on the first floor of Jhuggi No. H-150. The Jhuggi No. I-88 is also a double storey Jhuggi. The Appellant/Claimant has sought allotment from DDA Against the said double storey Jhuggi No. I-88 but her claim has been rejected by Eligibility Determination Committee on the ground of double allotment against the same Jhuggi in spite of the fact that it is not a case of double allotment and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 105 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. DDA has furnished survey record along with four video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.06.2024 wherein she has stated that the first video clip pertains to the ground floor Jhuggi No. H-150 of her mother-in-law Rajwati and in that video clip, Rajwati is seen and she is also heard stating that on the upper floor, his two sons; Vinod & Manju Devi (Wife of another son Sunil) are living and further, the room & kitchen on the ground floor are seen and further, Rajwati is also seen holding a slate in her hand on which **"H-150 RAJWATI G.F"** is seen to have been written. The second video clip pertains to the second room on the first floor of the Jhuggi No. H-150 in which both Vinod & Phula are seen and they are heard stating that their mother Rajwati is living on the ground floor and further, the room & kitchen of Vinod & Phula are seen on the first floor and further, Vinod is seen holding a state in his hand on which **"H-150 VINOD KUMAR FF"** is seen to have been written. The third video clip pertains to the first room on the first floor of the Jhuggi No. H-150 of Manju in which she is seen and getting the survey conducted and further, her room & kitchen are seen on the first floor and further, she is also seen holding a slate in her hand on which **"H-150 Manju Devi F/F"** is seen to have been written. The fourth video clip pertains to the double storey Jhuggi No. I-88 in which, Phula W/o Vinod (Appellant/Claimant) is seen and her room & kitchen are seen on the ground floor and she is also heard stating that her children are sleeping on the first floor and further, Phula is also seen holding a slate in her hand on which **"I-88 PHOOLA DEVI (NOT IN LIST) G+1"** is seen to have been written.

15. The admission of the Appellant/Claimant is clincher piece of evidence as she has categorically admitted that she had purchased Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar about 4-5 years ago from one Badrinath and they started living in Jhuggi No. I-88 as well as

11.10.2024 11/10/2024 11/10/2024

on the first floor of Jhuggi No. H-150. However, the sale deed & other documents are not placed on file. But the fact remains that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living in Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar regarding which she has been claiming allotment from DDA. But on the cutoff date of 01.01.2015 the previous owner Badrinath was living in the said Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar. However, the said Badrinath has not sought allotment from DDA against the said Jhuggi. Furthermore, the Appellant/Claimant has not sought allotment from DDA under the previous owner Badrinath but she has sought allotment from DDA in her individual capacity inspite of the fact that she had occupied the said Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar about 4-5 years ago, much after the cutoff date of 01.01.2015. Accordingly, this shows that she was not living separately & independently on the cutoff date of 01.01.2015 in the Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar, therefore, the Appellant/Claimant is not eligible to claim alternative allotment as per policy guidelines issued by DDA.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether it was a case of double allotment against the same Jhuggi and whether she is entitled to claim allotment against the said double storey Jhuggi No. I-88 as per the policy guidelines issued by DDA.

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

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

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

11.10.2024 11/10/2024 11/10/2024

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.

11.10.2024 S/Rawat 11/10/2024 11/10/2024

- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

11.10.2024 11/10/2024 11/10/2024

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

11.10.2024 11/10/2024 11/10/2024

floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the

11.10.2024 11/10/2024 11/10/2024

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

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

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

11-10-2024 11/10/2024 11/10/2024

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

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

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

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single

11.10.2024 S/Rawat 11/10/2024 11/10/2024

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

11.10.2024 11/10/2024 11/10/2024

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

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

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

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

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

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

11.10.2024 11/10/2024 11/10/2024

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

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

41. It is pointed out that we have already held that the Appellant/Claimant had purchased Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar about 4-5 years ago from one Badrinath and started living in Jhuggi No. I-88 as well as on the first floor of Jhuggi No. H-150. However, the sale deed & other documents are not placed on file. But the fact remains that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living in Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar regarding which she has been claiming allotment from DDA. But on the cutoff date of 01.01.2015 the previous owner Badrinath was living in the said Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar. However, the said Badrinath has not sought allotment from DDA against the said Jhuggi. Furthermore, the Appellant/Claimant has not sought allotment from DDA under the previous owner Badrinath but she has sought allotment from DDA in her individual capacity inspite of the fact that she had occupied the said Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar about 4-5 years ago, much after the cutoff date of 01.01.2015. Accordingly, this shows that she was not living separately & independently on the cutoff date of 01.01.2015 in the Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar, therefore, the Appellant/Claimant is not eligible to claim alternative allotment as per policy guidelines issued by DDA. But inspite of that the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether it was a case of double allotment against the same Jhuggi and whether she is entitled to claim allotment

11.10.2024 11/10/2024 11/10/2024

against the said double storey Jhuggi No. I-88 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered her Voter ID Card bearing No. WHC 3839044 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

44. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. WHC 3839044 (Annexure-A) and it has been issued on 20.10.2022, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in any of the Voter List of the years 2012 to 2015 does not arise. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. I-88 regarding which she has been claiming allotment from DDA and further her name also does not appear in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has also tendered the Ration Card (Annexure-D) & Electricity Bill (Annexure-E).

46. It is pointed out that the Appellant/Claimant has tendered the Ration Card No. 077005254652 (Annexure-D) and it has been issued in favour of the Appellant/Claimant and the name of her son Vikas is mentioned but the name of her husband and other family members are conspicuously missing and further, this Ration Card (Annexure-D) has been issued on 04.12.2019, much after the cutoff date of 01.01.2015. The Appellant/Claimant has also tendered the Ration Card (Annexure-F) bearing No. BPL 53171585 of the previous owner Badrinath and accordingly it is not relevant. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken the electricity connection on 18.03.2009. But it is pointed out that the Appellant/Claimant had purchased the Jhuggi No. I-88 and it seems that she had got her name incorporated in the records of the department but the original date of Energisation has continued to be mentioned in the electricity bill. Further, the admission of the Appellant/Claimant is a clincher piece of evidence because she has admitted that previously, she along with her husband Vinod and all the four children; Arti, Vikas, Vivek & Puja was living in one of the rooms on the first floor of the Jhuggi No. H-150 and regarding that, she as well as her husband Vinod had sought allotment from DDA and got the survey conducted but thereafter, they have not proceeded with their claim.

11.10.2024 11/10/2024 11/10/2024

However, subsequently, they have purchased the double storey Jhuggi No. I-88 from one Badrinath about 4-5 years ago and they have started living there and further, the Appellant/Claimant had sought allotment from DDA against the said double storey Jhuggi No. I-88. Admittedly, this Jhuggi was purchased by the Appellant/Claimant and her husband Vinod from Badrinath about 4-5 years ago and this shows that on the cutoff date of 01.01.2015, the Appellant/Claimant was not living in the said Jhuggi No. I-88, regarding which she is claiming allotment from DDA because this was admittedly purchased about 4-5 years ago. This accordingly shows that the Appellant/Claimant is not entitled to claim alternative allotment from DDA against the Jhuggi No. I-88 as on the cutoff date of 01.01.2015, she was not living in the said Jhuggi No. I-88 as it was admittedly purchased about 4-5 years ago.

47. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the first floor of the Jhuggi No. H-249 regarding which he has been claiming allotment from DDA and further no Voter List has been placed on file to show that his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant had purchased Jhuggi No. I-88,

11.10.2024 11/10/2024

Jailorwala Bagh, Ashok Vihar about 4-5 years ago from one Badrinath and started living in Jhuggi No. I-88 as well as on the first floor of Jhuggi No. H-150. However, the sale deed & other documents are not placed on file. But the fact remains that on the cutoff date of 01.01.2015 the Appellant/Claimant was not living in Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar regarding which she has been claiming allotment from DDA. But on the cutoff date of 01.01.2015 the previous owner Badrinath was living in the said Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar. However, the said Badrinath has not sought allotment from DDA against the said Jhuggi. Furthermore, the Appellant/Claimant has not sought allotment from DDA under the previous owner Badrinath but she has sought allotment from DDA in her individual capacity inspite of the fact that she had occupied the said Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar about 4-5 years ago, much after the cutoff date of 01.01.2015. Accordingly, this shows that she was not living separately & independently on the cutoff date of 01.01.2015 in the Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar, therefore, the Appellant/Claimant is not eligible to claim alternative allotment as per policy guidelines issued by DDA and further the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. I-88, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

11.10.2024 11/10/2024 11/10/2024

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-Fresh/189 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

11.10.2024 11/10/2024 11/10/2024

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

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

Appeal No: 225 of 2024

Date of Institution: 25.07.2023

Date of Order: 11.10.2024

Present: Appellant/ Claimant Manju Devi W/o Sunil Kumar

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-150, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-150 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No.

11/10.2024 11/10/2024 11/10/2024

350-10/71.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 225 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 10.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-W, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. H-150 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

11.10.2024 11/10/2024 11/10/2024

floor of the Jhuggi No. H-150 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Manju has been recorded before us on 10.06.2024 wherein she has stated that her in-laws, Shyam Prasad & Rajwati, are having three sons; Vinod, Sunil & Anil. All the children are married. Vinod is married with Phula Devi and having four children; Arti, Vikas, Vivek & Puja. Anil is married with Bindu and having two children. Sunil is married with Manju (Appellant/Claimant) and having two children; Himanshu & Mansi.

9. The Appellant/Claimant has stated that her family is having a double storey Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar and it comprises of one room on the ground floor and two rooms on the first floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor.

Ground Floor of Jhuggi No. H-150

10. The Appellant/Claimant has stated that her in-laws, Shyam Prasad & Rajwati, along with the family of their son Anil, are living on the ground floor of the Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar and regarding that, DDA has made allotment in favour of her mother-in-law, Rajwati. These facts are not disputed by DDA.

First Room on the First Floor of Jhuggi No. H-150

11. The Appellant/Claimant has stated that Vinod along with his wife Phula Devi and all the four children; Arti, Vikas, Vivek & Puja, is living in the first room on the first floor of the Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar and in order to claim alternative allotment against this Jhuggi, Vinod and his wife Phula Devi had got the survey conducted but afterwards, they have not proceeded with their claim against the first floor of the Jhuggi No. H-150 because they had purchased another Jhuggi No. I-88 in Jailorwala Bagh, Ashok Vihar.

Jhuggi No. I-88

12. The Appellant/Claimant has stated that Vinod & Phula Devi had purchased another Jhuggi No. I-88, Jailorwala Bagh, Ashok Vihar about 4-5 years ago from one Badrinath and they started living there. The Jhuggi No. I-88 is also a double storey Jhuggi and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor. Against the said double storey Jhuggi No. I-88, Phula Devi W/o

11.10.2024 Rawat 11/10/2024 11/10/2024

Vinod had sought allotment from DDA but her claim has been rejected by Eligibility Determination Committee on the ground of double allotment against the same Jhuggi and aggrieved by the same, she has filed the Appeal No. 105 of 2024 before the Appellate Authority for redressal and the said Appeal is still pending. These facts are not disputed by DDA.

Second Room on the First Floor of Jhuggi No. H-150

13. The Appellant/Claimant has stated that she along with her husband Sunil and both the daughters; Himanshi & Mansi, is living in the second room on the first floor of the Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar. The Appellant/Claimant has stated that she has sought allotment from DDA against the second room on the first floor of the said Jhuggi No. H-150, but her claim has been rejected by Eligibility Determination Committee on the ground that she has claimed allotment against the upper floor in spite of the fact that she has admittedly sought allotment from DDA against the first floor of the said Jhuggi No. H-150 and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 224 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-W, in support of her claim and prayed that DDA be directed to make allotment in her favour.

14. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024 wherein he has stated that the Appellant/Claimant Manju Devi has sought alternative allotment form DDA against the Jhuggi No. H-150, Jailorwala Bagh but her claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that she has claimed allotment against the upper floor. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby the reasons for rejection is mentioned to be **"Upper Floor"**. Aggrieved by the same, the Appeal No. 225 of 2024 has been filed by the present Appellant/ Claimant. Therefore, it is prayed that this Appellate Authority should take holistic view and legality of all the grounds be thoroughly considered to independently determine the eligibility of the Appellant/ Claimant as per the policy guidelines issued by DDA.

15. DDA has furnished survey records along with three video clips of Jhuggi No. H-150. As per survey records the survey was got conducted by the Appellant/Claimant on the first floor

11.10.2024 11/10/2024 11/10/2024

of the Jhuggi No. H-150 on 20.03.2020 and her photograph (Annexure-V) taken by the survey team of DDA is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

16. DDA has furnished survey record along with four video clips. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 10.06.2024 wherein she has stated that the first video clip pertains to the ground floor Jhuggi No. H-150 of her mother-in-law Rajwati and in that video clip, Rajwati, is seen and getting the survey conducted and she is also heard stating that on the upper floor, her two sons; Vinod & Manju Devi (reffering to Appellant/Claimant) are living and further, the room & kitchen on the ground floor are seen and further, Rajwati is also seen holding a slate in her hand on which **"H-150 RAJWATI G.F"** is seen to have been written. The second video clip pertains to the first room on the first floor of the Jhuggi No. H-150 in which both Vinod & Phula are seen and they are heard stating that their mother Rajwati is living on the ground floor and further, the room & kitchen of Vinod & Phula are seen on the first floor and further, Vinod is seen holding a state in his hand on which **"H-150 VINOD KUMAR FF"** is seen to have been written. The third video clip pertains to the second room on the first floor of the Jhuggi No. H-150 of the Appellant/Claimant Manju in which the Appellant/Claimant is seen and getting the survey conducted and further, her room & kitchen are seen on the first floor and furthermore, she is also seen holding a slate in her hand on which **"H-150 Manju Devi F/F"** is seen to have been written. The fourth video clip pertains to the double storey Jhuggi No. I-88 in which, Phula W/o Vinod is seen and her room & kitchen are seen on the ground floor and she is also heard stating that her children are sleeping on the first floor and further, Phula is also seen holding a slate in her hand on which **"I-88 PHOOLA DEVI (NOT IN LIST) G+1"** is seen to have been written.

17. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi H-150, which were prepared by the survey team of DDA and also played before him when his statement was recorded before us on 30.09.2024 wherein he has stated that the first video clip pertains to the ground floor Jhuggi No. H-150 of her mother-in-law Rajwati and in that

11.10.2024 11/10/2024 11/10/2024

video clip, Rajwati is seen and she is also heard stating that on the upper floor her two sons; Vinod & Manju Devi (referring to the wife of another son Sunil) are living and further, the room & kitchen on the ground floor are seen and further, Rajwati is also seen holding a slate in her hand on which **"H-150 RAJWATI G.F"** is seen to have been written. The second video clip pertains to the first room on the first floor of the Jhuggi No. H-150 in which both Vinod & Phula are seen and they are heard stating that their mother Rajwati is living on the ground floor and further, the room & kitchen of Vinod & Phula are seen on the first floor and further, Vinod is seen holding a state in his hand on which **"H-150 VINOD KUMAR FF"** is seen to have been written. The third video clip pertains to the second room on the first floor of the Jhuggi No. H-150 of the Appellant/Claimant Manju in which the Appellant/Claimant is seen and getting the survey conducted and further, her room & kitchen are seen on the first floor and further, she is also seen holding a slate in her hand on which **"H-150 Manju Devi F/F"** is seen to have been written. The fourth video clip pertains to the double storey Jhuggi No. I-88 in which, Phula W/o Vinod is seen and her room & kitchen are seen on the ground floor and she is also heard stating that her children are sleeping on the first floor and further, Phula is also seen holding a slate in her hand on which **"I-88 PHOOLA DEVI (NOT IN LIST) G+1"** is seen to have been written.

18. The statement of the Appellant/Claimant as well as her photograph (Annexure-V) taken by the survey team of DDA at the time of survey on 20.03.2020 and the video clips prepared by the survey team of DDA clearly shows that her in-laws, Shyam Prasad & Rajwati, along with the family of their son Anil, are living on the ground floor of the Jhuggi No. H-150 and regarding that, DDA has made allotment in favour of her mother-in-law Rajwati and further her brother-in-law, Vinod & Phula, are living in one of the room on the first floor of the Jhuggi No. H-150 whereas the Appellant/Claimant along with her family is living in the second room on the first floor of the double storey Jhuggi No. H-150 and the same has been used by her for residential purposes but her claim has been rejected by EDC on 14.12.2022 on the grounds that the Appellant/ Claimant has been found to have claimed allotment from DDA against the upper floor and she was not having requisite documents as per the policy guidelines issued by DDA but the existence of the Jhuggi of the Appellant/Claimant is not disputed by DDA.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 14.12.2022

19. Now we shall appraise the material placed on file to show as to how the EDC had proceeded

11.10.2024 11/10/2024

to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

20. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 14.12.2022 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-10/71.G dated 01.07.2023 (Annexure-U) to the present Appellant/Claimant and the EDC Note dated 14.12.2022 (Annexure-W) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 14.12.2022 (Annexure-W)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.05.2022 for organising a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. Wherein, the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of the opportunity. As per survey record, the applicant jhuggi existed on Upper floor/IInd floor and the policy guidelines for alternate allotment in cases of Upper floor is as under:

2. As per policy guidelines, Part –B para 10 of the eligibility criteria for allotment of alternate dwelling units to the jj dwellers. "if a different family having a separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling unit.

3. As per the above mentioned clause, the policy is specifically, mentioned for upper floor and not for upper floors. In case of upper floor, only the Jhuggi at 1st floor is considered for alternative allotment.

4.Since, the applicant is residing on the IInd floor of the Jhuggi, so the applicant can not be considered for alternative allotment as per policy guidelines. Hence, the applicant/claimant does not fulfil the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment."

21. The survey records placed on file shows that the Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 14.12.2022 and the ground for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby the sole reason for rejection is mentioned to be **"Upper Floor"**. The bare perusal of the EDC Note dated 14.12.2022 (Annexure-W) shows that it is no where disputed by DDA

11.10.2024 11/10/2024 11/10/2024

as far as the existence of the Jhuggi No. H-150 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently on the upper floor of the said Jhuggi and using it for residential purposes is concerned but her claim was rejected on the sole ground that the Appellant/ Claimant was found to have claimed allotment against the upper floor. There is no doubt that in the EDC Note dated 14.12.2022 (Annexure-W) there is a reference that the Jhuggi of the Appellant/ Claimant was found to exist on the Upper Floor/Second Floor. However, this finding of facts given in the said EDC Note dated 14.12.2022 (Annexure-W) is not corroborated by any supporting cogent material especially when the video clips prepared by the survey team of DDA does not corroborate that the Appellant/ Claimant was living on the second floor but on the other hand the survey records placed on file by DDA shows that the Appellant/ Claimant has got the survey conducted on the first floor and further she is also seen holding a slate in her hand on which **"H-150 Manju Devi F/F"** is seen to have been written. Moreover, it is not disputed that the Appellant/ Claimant has claimed allotment from DDA against the first floor of double storey Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar and furthermore, her Jhuggi has also been found to exist by this Appellate Authority on the first floor of the said double storey Jhuggi No. H-150 as corroborated by the Photograph (Annexure-V) and also by the video clips prepared by the survey team of DDA. Accordingly, the findings of EDC as reflected in the EDC Note dated 14.12.2022 (Annexure-W) that the Jhuggi of the Appellant/ Claimant was found to exist on the Upper Floor/Second Floor is totally unfounded, erroneous and against the facts, which are found to exist on the spot and accordingly, the same is not sustainable in the eyes of law and accordingly ignored by this Appellate Authority, thereby, holding that the Appellant/Claimant along with her family was & is still living on the first floor of the double storey Jhuggi No. H-150 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

22. Moreover, by taking holistic approach we shall discuss all the legal points in detail to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA

11.10.2024 11/10/2024 11/10/2024

policy, 2015 in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit on the first floor of the double storey Jhuggi No. H-150 except that she was allegedly not having all the requisite documents.

23. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photograph/video clips, about the existence of the double storey Jhuggi No. H-150. Thus the statement of the Appellant/Claimant as well as the survey records/ photograph/video clips has duly proved that the double storey Jhuggi No. H-150 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and her in-laws, Shyam Prasad & Rajwati, along with the family of their son Anil, are living on the ground floor of the Jhuggi No. H-150 and regarding that, DDA has made allotment in favour of her mother-in-law, Rajwati, and further her brother-in-law, Vinod & Phula, are living in one of the room on the first floor of the Jhuggi No. H-150 whereas the Appellant/Claimant along with her family is living in the second room on the first floor of the double storey Jhuggi No. H-150 and the same has been used by her for residential purposes.

24. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-150 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the double storey Jhuggi No. H-150 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi.

25. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. H-150 as per the policy guidelines issued by DDA.

11.10.2024 11/10/2024 11/10/2024

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

27. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because she was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-10/71.G dated 01.07.2023.

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

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

11.10.2024 11/10/2024 11/10/2024

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."

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

11.10.2024 11/10/2024

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

11.10.2024 11/10/2024 11/10/2024

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

11.10.2024 11/10/2024 11/10/2024

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

15.10.2024 11/10/2024 11/10/2024

Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

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

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

41. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions

11.10.2024 11/10/2024

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

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

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

11.10.2024 11/10/2024 11/10/2024

and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

11.10.2024 Rawat 11/10/2024 11/10/2024

01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

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

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

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

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

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

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

51. It is pointed out that we have already held that the double storey Jhuggi No. H-150 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living on the first floor of the double

11.10.2024 Rawat 11/10/2024 11/10/2024

storey Jhuggi No. H-150 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the first floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

52. It is also pointed out that we have already held that the bare perusal of the EDC Note dated 14.12.2022 (Annexure-W) shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. H-150 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently on the upper floor of the said Jhuggi and using it for residential purposes is concerned but her claim was rejected on the sole ground that the Appellant/ Claimant was found to have claimed allotment against the upper floor and furthermore, the survey records placed on file shows that the Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 14.12.2022 and the ground for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby the sole reason for rejection is mentioned to be **"Upper Floor"**. The bare perusal of the EDC Note dated 14.12.2022 (Annexure-W) shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. H-150 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently on the upper floor of the said Jhuggi and using it for residential purposes is concerned but her claim was rejected on the sole ground that the Appellant/ Claimant was found to have claimed allotment against the upper floor. There is no doubt that in the EDC Note dated 14.12.2022 (Annexure-W) there is a reference that the Jhuggi of the Appellant/ Claimant was found to exist on the Upper Floor/Second Floor. However, this finding of facts given in the said EDC Note dated 14.12.2022 (Annexure-W) is not corroborated by any supporting cogent material especially when the video clips prepared by the survey team of DDA do not corroborate that the Appellant/ Claimant was living on the second floor but on the other hand the survey records placed on file by DDA shows that the Appellant/ Claimant has got the survey conducted on the first floor and further she is also seen holding a slate in her hand on which **"H-150 Manju Devi F/F"** is seen to have been written. Moreover, it is not disputed that the Appellant/ Claimant has claimed allotment from DDA against the first floor of double storey Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar and furthermore, her

11.10.2024 Rawat 11/10/2024 11/10/2024

Jhuggi has also been found to exist by this Appellate Authority on the first floor of the said double storey Jhuggi No. H-150 as corroborated by the Photograph (Annexure-V) and also by the video clips prepared by the survey team of DDA. Accordingly, the findings of EDC as reflected in the EDC Note dated 14.12.2022 (Annexure-W) that the Jhuggi of the Appellant/ Claimant was found to exist on the Upper Floor/Second Floor is totally unfounded, erroneous and against the facts, which are found to exist on the spot and accordingly, the same is not sustainable in the eyes of law and accordingly ignored by by this Appellate Authority, thereby, holding that the Appellant/Claimant along with her family was & is still living on the first floor of the double storey Jhuggi No. H-150 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Thus the fact as to whether the Appellant/ Claimant was having a valid Voter ID Card & a Separate Ration Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

53. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card & a separate ration Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the first floor of the said double storey Jhuggi No. H-150 as per the policy guidelines issued by DDA.

54. First of all, we shall first appraise the material placed on file to determine as to whether the Appellant/Claimant fulfill a mandatory condition of having a separate Ration Card on the cutoff date of 01.01.2015 issued on the first floor of Jhuggi No. H-150 because as pointed out above the policy guidelines issued by DDA requires that the dweller must have a separate Ration Card, which is a mandatory document for the upper floor.

11.10.2024 11/10/2024 11/10/2024

55. The Appellant/Claimant has categorically stated that she is having a separate Ration Card issued on the address of the first floor of the Jhuggi No. H-150, regarding which she is claiming allotment from DDA. The Appellant/Claimant has tendered her Ration Card (Annexure-O) and the Report (Annexure-N) downloaded from Internet in support of her claim.

56. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered her Ration Card (Annexure-O) and the Report (Annexure-N) downloaded from Internet, in support of her claim. The Ration Card bearing No. 077004217381 (Annexure-O) has been issued in favour of the Appellant/Claimant but the date of issuance is not mentioned therein but the Report (Annexure-N) downloaded from the Internet shows that the Appellant/Claimant had applied for issuance of Ration Card on 26.05.2014 and it was approved by competent authority on 21.07.2014 thereby showing that said Ration Card (Annexure-O) bearing No. 077004217381 was issued in favour of the Appellant/Claimant on 21.07.2014.

57. It is pointed out that the Appellant/Claimant has categorically stated that she is having a separate Ration Card issued on the address of the first floor of the Jhuggi No. H-150, regarding which she is claiming allotment from DDA. Further, it is not disputed that the Ration Card bearing No. 077004217381 (Annexure-O) has been issued in favour of the Appellant/Claimant but the date of issuance is not mentioned therein. However, the Report (Annexure-N) downloaded from the Internet shows that the Appellant/Claimant had applied for issuance of Ration Card on 26.05.2014 and it was approved by competent authority on 21.07.2014, thereby, showing that said Ration Card (Annexure-O) bearing No. 077004217381 was issued in favour of the Appellant/Claimant on 21.07.2014, much prior to the cutoff date of 01.01.2015. The fact remains that the Appellant/Claimant was having a separate Ration Card issued on the address of the first floor of the Jhuggi No. H-150, regarding which she is claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant fulfill the eligibility criteria as per the guidelines issued by DDA, which make separate Ration Card a mandatory document for the upper floor.

58. Now we shall first appraise the material placed on file to determine on by one as to whether the Appellant/Claimant fulfill other mandatory condition of having a Voter ID Card on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and

11.10.2024 11/10/2024

whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015

59. The Appellant/Claimant has tendered her Voter ID Card No. WHC 1861748 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), the Letter No. F. No.AERO/AC-17/2024/163 dated 01.05.2024 (Annexure-Q) of AERO, AC-17, Wazirpur, Voter List of the year 2013 (Annexure-R), Voter List of the year 2014 (Annexure-S) and Voter List of the year 2015 (Annexure-T) in support of her claim.

60. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-W, in support of her claim. The Voter ID Card No. WHC 1861748 (Annexure-A) of the Appellant/Claimant has been issued on 16.01.2013 and her Aadhar Card No. 3936 4777 5175 (Annexure-B) has been issued on 30.09.2011. Furthermore, the Letter No. F. No. AERO/AC-17/2024/163 dated 01.05.2024 (Annexure-Q) of AERO, AC-17, Wazirpur shows that Voter ID Card No. WHC 1861748 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, it is also reflected in the Voter List of the year 2013 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 983 in the Voter List of the year 2013 (Annexure-R), at Sl. No. 222 in the Voter List of the year 2014 (Annexure-S) and at SL. No. 240 in the Voter List of the year 2015 (Annexure-T). In the Voter Lists (Annexure-R to Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1861748 and in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-R to Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-150.

61. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card (Annexure-A) bearing number WHC 1861748 and it has been issued on 16.01.2013, much prior to the cutoff date of 01.01.2015. The Aadhar Card (Annexure-B) of the Appellant/Claimant is bearing No. 3936 4777 5175 and it has been issued on 30.09.2011, much prior to the cutoff date of 01.01.2015. Furthermore, the Letter No. F. No. AERO/AC-17/2024/163 dated 01.05.2024 (Annexure-Q) of AERO/AC-17, Wazirpur shows that Voter ID Card No. WHC 1861748 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, it is also reflected in the Voter List of the year 2013 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 983 in the Voter List of the year 2013 (Annexure-R), at Sl. No. 222 in the Voter List of the year 2014

11.10.2024 11/10/2024 11/10/2024

(Annexure-S) and at SL. No. 240 in the Voter List of the year 2015 (Annexure-T). It is also pointed out that in all the Voter Lists (Annexure-R to Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1861748 and in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-R to Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-150, regarding which she is claiming allotment from DDA.

62. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-150 regarding which she has been claiming allotment from DDA and further her name also appears in any of the voter list of the year's 2013, 2014 and 2015 (prior to 01-01-2015) but all these relevant & material facts were not duly considered by EDC.

63. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because her name does not appear in the year of survey, i.e., 2020 (because as per the survey records placed on file survey/videography was conducted on 20.03.2020) even though she was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears in the voter list of the year's 2013 to 2015.

64. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

(iv) in any year if such revision has been directed by the Election Commission.

65. Therefore, the reasons for not tendering the Voter List of the year 2020 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the year 2020 (year of survey) when it was not prepared/ available with the Election Commission.

66. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains the first Voter ID Card on 16.01.2013, before the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears in the voter list of the year's 2013 to 2015 but their name

11.10.2024 11/10/2024 11/10/2024

happened to be not appearing in the Voter List of the year 2020 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter list of the year 2020 even though they possess all the relevant documents, including a valid Voter Id Card on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2013 to 2015 and further all these documents in unequivocal terms shows that they have been continuing living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2013 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the year 2020 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the voter list of the year 2020 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No. WHC 1861748 dated 16.01.2013 (Annexure-A), which has been issued on the address of Jhuggi No. H-150. The Aadhar Card (Annexure-B) of the Appellant/Claimant is bearing No. 3936 4777 5175 and it has been issued on 30.09.2011, much prior to the cutoff date of 01.01.2015. Furthermore, the Letter No. F. No.AERO/AC-17/2024/163 dated 01.05.2024 (Annexure-Q) of AERO/AC-17, Wazirpur shows that Voter ID Card No. WHC 1861748 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, it is also reflected in the Voter List of the year 2013 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 983 in the Voter List of the year 2013 (Annexure-R), at Sl. No. 222 in the Voter List of the year 2014 (Annexure-S) and at SL. No. 240 in the Voter List of the year 2015 (Annexure-T). This shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar from 30.09.2011 (the date of issuance of the Aadhar Card - Annexure-B) & 16.01.2013 (the date of issuance of the Voter ID Card -

11.10.2024 11/10/2024 11/10/2024

Annexure-A) to 27.09.2022 (the date of issuance of taking electricity connection - Annexure-P)). It is also pointed out that in all the Voter Lists (Annexure-R to Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1861748 and in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-R to Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-150, regarding which she is claiming allotment from DDA.

67. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

68. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
>
> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such*

11.10.2024 11/10/2024 11/10/2024

electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

69. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause

11.10.2024 G. Rawat 11/10/2024 11/10/2024

(iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

70. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having a valid Voter ID Card & also a Aadhar Card on the cutoff date of 01.01.2015 and further she possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view especially when she was having a valid Voter ID Card (Annexure-A) & Aadhar Card No. 3936 4777 5175 (Annexure-B) on the cutoff date of 01.01.2015 and further her name also appears continuously in the Voter Lists from the years 2013 to 2015 (Annexure-R to Annexure-T) and all the documents have been issued on the address of Jhuggi No. H-150 regarding which she is claiming allotment from DDA and further she as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

71. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. H-150 since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lent support to the claim put forward by the Appellant/Claimant.

72. The Appellant/Claimant has tendered the Voter ID Card No. WHC 1620707 (Annexure-D), Aadhar Card (Annexure-E) & PAN Card (Annexure-F) of her husband Sunil, Aadhar Cards (Annexure-G & Annexure-H) of her Children; Himanshu & Mansi, Passbook of Indian Overseas Bank (Annexure-I), Passbook of Bank of India (Annexure-J), Passbook of PNB (Annexure-K), Passbook of PNB (Annexure-L), ID Card of School (Annexure-M) of Mansi, and Electricity Bill (Annexure-P) in support of her claim.

73. It is also pertinent to point out that Dilshad Ahemad, Assistant Director has also stated that the Appellant/Claimant has tendered documents, Annexure-D to Annexure-M & Annexure-P, in support of her claim. The Voter ID Card No. WHC 1620707 (Annexure-D) of her husband Sunil has been issued on 22.02.2009 and in the Aadhar Card No. 3113 7863 0096 (Annexure-E) of her husband Sunil the date of issuance is not mentioned. But the Aadhar

11.10.2024 11/10/2024 11/10/2024

Card No. 7634 7014 7497 (Annexure-G) of her son Himanshu, Aadhar Card No. 2452 2298 5762 (Annexure-H) bearing of her daughter Mansi, have been issued on 11.08.2017 & 17.08.2017 respectively. Furthermore, all these documents (Annexure-D, Annexure-E, Annexure-G & Annexure-H) have been issued on the address Jhuggi No. H-150. The Passbook of Indian Overseas Bank (Annexure-I) shows that the Appellant/Claimant had opened the account on 07.03.2013. The Passbook of Bank of India (Annexure-J) shows that her husband Sunil had opened the account on 27.08.2009. The Passbooks of PNB (Annexure-K & Annexure-L) shows that her children Himanshu & Mansi had opened the account on 10.09.2018 & 04.09.2019 respectively. The ID Card of school of Mansi is Annexure-M. The Electricity Bill (Annexure-P) shows that the Appellant/Claimant had taken the electricity connection on 27.09.2022. Further, in all the above-mentioned documents, the address is mentioned to be Jhuggi No. H-150, regarding which the Appellant/Claimant is claiming allotment from DDA.

74. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. WHC 1620707 (Annexure-D) of her husband Sunil, which has been issued on 22.02.2009, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-E) of her husband Sunil bearing No. 3113 7863 0096, Aadhar Card No. 7634 7014 7497 (Annexure-G) of her son Himanshu, Aadhar Card bearing No. 2452 2298 5762 (Annexure-H) of her daughter Mansi. The date of issuance of the Aadhar Card of Sunil (Annexure-E) is not mentioned but the Aadhar Cards (Annexure-G & Annexure-H) of Himanshu & Mansi have been issued on 11.08.2017 & 17.08.2017 respectively. Furthermore, all these documents (Annexure-D, Annexure-E, Annexure-F & Annexure-G) have been issued on the address Jhuggi No. H-150, regarding which the Appellant/Claimant is claiming allotment from DDA. It is pointed out that the Passbook of Indian Overseas Bank (Annexure-I) shows that the Appellant/Claimant had opened the account on 07.03.2013, much prior to the cutoff date of 01.01.2015. The Passbook of Bank of India (Annexure-J) shows that her husband Sunil had opened the account on 27.08.2009, much prior to the cutoff date of 01.01.2015. The Passbooks of PNB (Annexure-K & Annexure-L) shows that Himanshu & Mansi had opened the account on 10.09.2018 & 04.09.2019 respectively. The ID Card of school of Mansi is Annexure-M. The Electricity Bill (Annexure-P) shows that the Appellant/Claimant had taken the electricity connection on 27.09.2022. Further, it is pointed out that in all the above-mentioned documents, the address is mentioned to be Jhuggi No. H-150, regarding which the Appellant/Claimant is claiming allotment from DDA.

11.10.2024 11/10/2024 11/10/2024

75. The Appellant/Claimant has tendered her documents and also of her family members, namely, the Voter ID Cards & Aadhar Cards, ID Card, Electoral Rolls, Electricity Bill, Bank Passbooks and Ration Card etc. and all these documents have been issued from 2009 to 2022 and it accordingly amply establishes that she as well as her family members have been living jointly on the first floor of the double storey Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

76. In view of the matter as per our discussion above, the material placed on file supports the claim of the Appellant/ Claimant and shows that the Appellant/ Claimant fulfils the eligibility criteria as per the policy guidelines issued by DDA as under: -

(a) The material placed on file shows that the Appellant/ Claimant was living separately & independently on the first floor of Jhuggi No. H-150, which constitute single dwelling unit and further as per our discussion above, the documents, Annexure-A to Annexure-W, shows that the Appellant/Claimant has having a valid Voter ID Card WHC 1861748 dated 16.01.2013 (Annexure-A), which has been issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. H-150 regarding which he is claiming allotment from DDA. The Aadhar Card (Annexure-B) of the Appellant/Claimant is bearing No. 3936 4777 5175 and it has been issued on 30.09.2011, much prior to the cutoff date of 01.01.2015. Furthermore, the Letter No. F. No.AERO/AC-17/2024/163 dated 01.05.2024 (Annexure-Q) of AERO, AC-17, Wazirpur shows that Voter ID Card No. WHC 1861748 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, it is also reflected in the Voter List of the year 2013 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the year 2020 (year of survey). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 983 in the Voter List of the year 2013 (Annexure-R), at Sl. No. 222 in the Voter List of the year 2014 (Annexure-S) and at SL. No. 240 in the Voter List of the year 2015 (Annexure-T). It is also pointed out that in all the Voter Lists (Annexure-R to Annexure-T), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be WHC 1861748 and in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-R to Annexure-T) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-150, regarding which she is claiming allotment from DDA.

11.10.2024 Rawat 11/10/2024 11/10/2024

(b) The material placed on file also shows that the Appellant/Claimant is also having a separate Ration Card issued on the address of the first floor of the Jhuggi No. H-150, regarding which she is claiming allotment from DDA. It is pointed out that the Ration Card bearing No. 077004217381 (Annexure-O) has been issued in favour of the Appellant/Claimant and the Report (Annexure-N) downloaded from the Internet shows that the Appellant/Claimant had applied for issuance of Ration Card on 26.05.2014 and it was approved by competent authority on 21.07.2014 thereby showing that said Ration Card (Annexure-O) bearing No. 077004217381 was issued in favour of the Appellant/Claimant on 21.07.2014, much prior to the cutoff date of 01.01.2015.

(c) The material placed on file also shows that the Voter ID Card No. WHC 1620707 (Annexure-D) of her husband Sunil has been issued on 22.02.2009, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-E) of her husband Sunil bearing No. 3113 7863 0096, Aadhar Card No. 7634 7014 7497 (Annexure-G) of her son Himanshu, Aadhar Card bearing No. 2452 2298 5762 (Annexure-H) of her daughter Mansi. The date of issuance of the Aadhar Card of Sunil (Annexure-E) is not mentioned but the Aadhar Cards (Annexure-G & Annexure-H) of Himanshu & Mansi have been issued on 11.08.2017 & 17.08.2017 respectively. Furthermore, all these documents (Annexure-D, Annexure-E, Annexure-G & Annexure-H) have been issued on the address Jhuggi No. H-150, regarding which the Appellant/Claimant is claiming allotment from DDA.

(d) The material placed on file also shows that the Passbook of Indian Overseas Bank (Annexure-I) shows that the Appellant/Claimant had opened the account on 07.03.2013, much prior to the cutoff date of 01.01.2015. The Passbook of Bank of India (Annexure-J) shows that her husband Sunil had opened the account on 27.08.2009, much prior to the cutoff date of 01.01.2015. The Passbooks of PNB (Annexure-K & Annexure-L) shows that Himanshu & Mansi had opened the account on 10.09.2018 & 04.09.2019 respectively. The ID Card of school of Mansi is Annexure-M. The Electricity Bill (Annexure-P) shows that the Appellant/Claimant had taken the electricity connection on 27.09.2022. Further, it is pointed out that in all the above-mentioned documents, the address is mentioned to be Jhuggi No. H-150, regarding which the Appellant/Claimant is claiming allotment from DDA.

11.10.2024 11/10/2024 11/10/2024

(e) The material placed on file further shows that the Appellant/Claimant as well as her husband Sunil and children, Himanshu & Mansi, are having their respective Voter ID Cards, Aadhar Cards, ID card, Electricity Bill, Ration Card and further they are also maintaining Bank Accounts on the address of Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar and it corroborates that the Appellant/Claimant as well as her husband Sunil & children have been living jointly on the first floor of the double storey Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar.

(f) The material placed on file shows that the Passbooks of Banks (Annexure-I to Annexure-L), ID Card of school of Mansi (Annexure-M), the Ration Card (Annexure-O) and the Electricity Bill (Annexure-P) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. H-150 since long and much prior to the Cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

77. As already pointed out above, we have already held that the survey records placed on file shows that the Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 14.12.2022 and the ground for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby the sole reason for rejection is mentioned to be **"Upper Floor"**. The bare perusal of the EDC Note dated 14.12.2022 (Annexure-W) shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. H-150 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently on the upper floor of the said Jhuggi and using it for residential purposes is concerned but her claim was rejected on the sole ground that the Appellant/ Claimant was found to have claimed allotment against the upper floor. There is no doubt that in the EDC Note dated 14.12.2022 (Annexure-W) there is a reference that the Jhuggi of the Appellant/ Claimant was found to exist on the Upper Floor/Second Floor. However, this finding of facts given in the said EDC Note dated 14.12.2022 (Annexure-W) is not corroborated by any supporting cogent material especially when the video clips prepared by the survey team of DDA does not corroborate that the Appellant/

11.10.2024 S/Rawat 11/10/2024 11/10/2024

Claimant was living on the second floor but on the other hand the survey records placed on file by DDA shows that the Appellant/ Claimant has got the survey conducted on the first floor and further she is also seen holding a slate in her hand on which **"H-150 Manju Devi F/F"** is seen to have been written. Moreover, it is not disputed that the Appellant/ Claimant has claimed allotment from DDA against the first floor of double storey Jhuggi No. H-150, Jailorwala Bagh, Ashok Vihar and furthermore, her Jhuggi has also been found to exist by this Appellate Authority on the first floor of the said double storey Jhuggi No. H-150 as corroborated by the Photograph (Annexure-V) and also by the video clips prepared by the survey team of DDA. Accordingly, the findings of EDC as reflected in the EDC Note dated 14.12.2022 (Annexure-W) that the Jhuggi of the Appellant/ Claimant was found to exist on the Upper Floor/Second Floor is totally unfounded, erroneous and against the facts, which are found to exist on the spot and accordingly, the same is not sustainable in the eyes of law and accordingly ignored by this Appellate Authority, thereby, holding that the Appellant/Claimant along with her family was & is still living on the first floor of the double storey Jhuggi No. H-150 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the first floor of the said double storey Jhuggi. Thus her claim was rejected wrongly by the EDC inspite of the fact that as per our discussion above it has been found by us that the Appellant/Claimant has claimed allotment against the first floor of Jhuggi No. H-150, which constitute single dwelling unit, and further she was having a valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and further her name also appears continuously in the voter list of the year's 2013 to 2015 and further she was having second document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but all these relevant facts were not duly considered by EDC.

78. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 225 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-10/71.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant, Manju Devi W/o Sunil Kumar, in respect of the first floor of

11.10.2024 Rawat 11/10/2024 11/10/2024

double storey Jhuggi No. H-150, which constitute single dwelling unit, Jailorwala Bagh, Ashok Vihar.

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

11-10-2024 11/10/2024 11/10/2024

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

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

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

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

Appeal No: 134 of 2024

Date of Institution: 14.07.2023

Date of Order: 14.10.2024

Present: Appellant/ Claimant Mata Deen S/o Ram Milan

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. H-296/N-207/235, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. H-296/N-207/235 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant / Claimant for alternative allotment and the Nodal Officer, Jailorwala

14.10.2024 14/10/2024 14/10/2024

Bagh, duly communicated its order bearing No. 350/Fresh/190 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 134 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of Govind, who is son of the Appellant/Claimant Mata Deen, has been recorded before us on 07.10.2024. He 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 Govind, who is son of the Appellant/Claimant Mata Deen, as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-296/N-207/235 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. H-296/N-207/235 as per the policy guidelines issued by DDA.

14.10.2024 14/10/2024 14/10/2024

8. The statement of Govind, who is son of the Appellant/Claimant Mata Deen, has been recorded before us on 07.10.2024 wherein he has stated that his father Mata Deen is paralysed and since 2006 he is living in his native village in Intgaon, District Ayodhya, Uttar Pradesh and accordingly, he is not in a position to come present before us and make statement in support of his claim, therefore, Govind has come present to make statement in support of claim of his father Mata Deen.

9. Govind has stated that his parents, Mata Deen (Appellant/Claimant) & Kalawati, are having three sons; Govind, Ravinder & Sobhnath and one daughter Manju Devi. All the children are married. Manju Devi is married with Yogesh and she is living in her matrimonial home in Village Umrao, Uttar Pradesh. Ravinder is married with Soni and having two children whereas Shobhnath is married with Poonam and having two children and both Ravinder & Shobhnath along with their respective families are living in their native village in Intgaon, District Ayodhya, Uttar Pradesh. Govind is married with Yogeshwari and having two children. His wife Yogeshwari along with both the children is also living in their native village in Intgaon, District Ayodhya, Uttar Pradesh whereas Govind is living in Jailorwala Bagh, Ashok Vihar, Delhi.

10. Govind has stated that his parents; Mata Deen & Kalawati, along with him (Govind) are living in the double storey Jhuggi No. H-296/N-207/235, Jailorwala Bagh, Ashok Vihar. It comprises of one room on each floor and a bamboo ladder is also placed outside in the gali and it is used for going to the upper floor.

11. Govind has stated that his father Matadeen has been paralysed and accordingly, he along with his wife Kalawati, has shifted to their native village in Intgaon, District Ayodhya, Uttar Pradesh in the year 2006 and since then Govind is alone in the said Jhuggi bearing No. H-296/N-207/235. However, his father Mata Deen (Appellant/Claimant) has sought allotment from DDA against the said double storey Jhuggi No. H-296/N-207/235 but his claim has been rejected by the Eligibility Determination Committee on the ground that second document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 has not been furnished by him in spite of the fact that he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same, he (Mata Deen) has filed the present Appeal No. 134 of 2024 before the Appellate Authority for redressal. Govind has also tendered documents, Annexure-A to Annexure-H, in support of the claim of his father Mata Deen

14.10.2024 14/10/2024 14/10/2024

(Appellant/Claimant) and prayed that DDA be directed to make allotment in favour of his father.

12. DDA has furnished survey records along with one video clip pertaining to the Jhuggi No. H-296/N-207/235. The video was played before Govind when his statement was recorded before us on 07.10.2024 wherein he has stated that the video clip pertains to the Jhuggi No. H-296/N-207/235 in which the Jhuggi is clearly seen to be a pucca structure from outside and further, the Appellant/Claimant Mata Deen is seen and getting the survey conducted and further, his room & kitchen are also seen on the ground floor and further, Mata Deen is also seen holding a slate in his hand on which **"H-186(N-207/235) MATA DIN (NOT IN LIST) G+1"** is seen to have been written.

13. The admission of Govind, who is son of the Appellant/Claimant Mata Deen, is a clincher piece of evidence and it shows that previously he along with his parents; Mata Deen & Kalawati, was living in the double storey Jhuggi No. H-296/N-207/335 but his father Mata Deen has been paralysed and accordingly, both of his parents; Mata Deen & Kalawati, have shifted to their native village in Intgaon, District Ayodhya, Uttar Pradesh in the year 2006 and since then Govind is living alone in that double storey Jhuggi No. H-296/N-207/335. This shows that since 2006 the Appellant/Claimant is not living in his Jhuggi No. H-296/N-207/335, Jailorwala Bagh, Ashok Vihar but this fact is not fatal to the claim of the Appellant/Claimant because due to his medical condition he has been forced to go to his native village but he deems to be in a constructive possession of the Jhuggi No. H-296/N-207/335 through his son Govind and accordingly, no illegality is committed by him to claim alternative allotment from DDA against the said Jhuggi.

14. There is nothing to disbelieve the statement of Govind, who is the son of the Appellant/Claimant, on the material aspect of the case about the existence of the double storey Jhuggi No. H-296/N-207/235. Thus the statement of Govind, who is the son of the Appellant/Claimant, has duly proved that the double storey Jhuggi No. H-296/N-207/235 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is living in the said double storey Jhuggi No. H-296/N-207/235 and is using the same for residential purposes.

15. Accordingly, we have no hesitation in holding that the double stroey Jhuggi No. H-296/N-207/235 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and further the Appellant/Claimant along with his family was & is still living in

14.10.2024 14/10/2024 14/10/2024

the said double storey Jhuggi No. H-296/N-207/235 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. H-296/N-207/235 as per the policy guidelines issued by DDA.

17. Govind, who is the son of the Appellant/Claimant, has stated that the claim of his father, Matadeen (Appellant/Claimant) has been wrongly rejected by DDA. He has tendered documents, Annexure-A to Annexure-H, in support of the claim of his father, Matadeen (Appellant/Claimant) and prayed that DDA be directed to make allotment in his favour.

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

> **"Part-B**
> **<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.

14.10.2024 14/10/2024 14/10/2024

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."

14.10.2024 14/10/2024 14/10/2024

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

14.10.2024 14/10/2024

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

14.10.2024 14/10/2024 14/10/2024

they are claiming alternative allotment from DDA against the ground floor or upper floor.

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

14.10.2024 14/10/2024 14/10/2024

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

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

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

14.10.2024 14/10/2024 14/10/2024

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

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

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

14.10.2024 14/10/2024 14/10/2024

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

14.10.2024 14/10/2024 14/10/2024

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

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

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

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

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

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

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

41. It is pointed out that we have already held that the Jhuggi No. H-296/N-207/235 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the

14.10.2024 14/10/2024 14/10/2024

Appellant/Claimant along with his family was & is still living in the said double storey Jhuggi No. H-296/N-207/235 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. H-296/N-207/235 as per the policy guidelines issued by DDA.

43. Govind, who is the son of the Appellant/Claimant Mata Deen, has tendered the Voter ID Card No. DL/04/053/270425 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-F), Voter List of the year 1999 (Annexure-G) of the Appellant/Claimant and the Letter No. F.No.AERO/AC-17/2024/192 dated 27.05.2024 (Annexure-H) issued by AERO, AC-17, Wazirpur in support of claim of his father.

44. It is pointed out that the Voter ID Card No. DL/04/053/270425 (Annexure-A) of Mata Deen has been issued on 29.01.1996, much prior to the cutoff date of 01.01.2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 868 in the Voter List of the year 1999 (Annexure-G), but it is pointed out that in the Voter List (Annexure-G), the number of the Voter ID Card of the Appellant/Claimant is not mentioned. Furthermore, the Letter No. F.No.AERO/AC-17/2024/192 dated 27.05.2024 (Annexure-H) issued by AERO, AC-17, Wazirpur shows that no record is available with the Election Commission pertaining to the Voter ID Card No. DL/04/053/270425 of the Appellant/Claimant for the years 2013 to 2024. This accordingly shows that the Voter ID Card No. DL/04/053/270425 (Annexure-A), which was issued on 29.01.1996, was used by the Appellant/Claimant Mata Deen in the year 1999 and thereafter, he has not used his Voter ID Card to cast vote in any of the elections and had it been so then this Voter ID Card would have certainly been reflected in the Voter Lists maintained by the Election Commission. Furthermore, the the Letter No.

14.10.2024 14/10/2024 14/10/2024

F.No.AERO/AC-17/2024/192 dated 27.05.2024 (Annexure-H) issued by AERO, AC-17, Wazirpur clearly shows that no record pertaining to the Voter ID Card DL/04/053/270425 (Annexure-A) is available with the Election Commission and it shows that this Voter ID Card must have been cancelled due to non-use and therefore, no record is available with the Election Commission from 2013 to 2024. This shows that the Voter ID Card No. DL/04/053/270425 (Annexure-A) was not in existence on the cutoff date of 01.01.2015 and further, no Voter ID has been tendered for the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey to show that the Appellant/Claimant had used his Voter ID Card to cast vote during the relevant period. Further, the Aadhar Card bearing No. 3048 8042 4121 (Annexure-B) of the Appellant/Claimant Mata Deen has been tendered but the date of issuance is not mentioned in this document.

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-296/N-207/235 regarding which he has been claiming allotment from DDA and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. Govind, who is the son of the Appellant/Claimant Mata Deen, has also tendered the Electricity Bill (Annexure-C), Ration Card No. 899360 (Annexure-D) & Passbook of Allahabad Bank (Annexure-E) in support of the claim of the Appellant/Claimant.

47. It is pointed out that the Electricity Bill (Annexure-C) shows that the electricity connection has been taken by the Appellant/Claimant Mata Deen on 26.06.2007. Further, the Ration Card No. 899360 (Annexure-D) has been issued in favour of the Appellant/Claimant on 06.07.2007 and the name of family members of Mata Deen have been mentioned therein. Further, the Passbook of Allahabad Bank (Annexure-E) shows that the Appellant/Claimant had opened the account but the date of opening the account is not mentioned and further, the address on this document is mentioned to be "22 N-326, Kaushal Puri" and not pertaining to the Jhuggi No. H-296/N-207/335, Jailorwala Bagh, Ashok Vihar, regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly, this documents is not relevant. However, it is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not

14.10.2024 14/10/2024 14/10/2024

create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-296/N-207/235, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-296/N-207/235, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-H, furnished by the

14.10.2024 14/10/2024 14/10/2024

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

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/190 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

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

14.10.2024 14/10/2024 14/10/2024

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

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

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

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

Appeal No: 30 of 2024

Date of Institution: 08.05.2023

Date of Order: 14.10.2024

Present: Appellant/ Claimant Vinod Kumar S/o Shri Parkash

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. F-37/CN-356, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-37/CN-356 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-63/47.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved

14.10.2024 14/10/2024

by the same, the present Appeal No. 30 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 14.06.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z and Annexure-ZA to Annexure-ZC, in support of his claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA has been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 07.10.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi double storey bearing No. F-37/CN-356 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

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

14.10.2024 14/10/2024 14/10/2024

whether he is entitled to claim allotment against the double storey Jhuggi No. F-37/CN-356 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Vinod Kumar has been recorded before us on 14.06.2024, wherein he has stated that his parents, Shri Prakash & Indrawati Devi, are having one son, Vinod and three daughters, Guddi, Sanguddi & Mansa. Both the parents, Shri Prakash & Indrawati are living in their native village in District Azamgarh, Uttar Pradesh. All the children are married. Guddi is married with Ashok, Sanguddi is married with Ramesh and Mansa is married with Dhananjay and all the three daughters are living in their respective matrimonial homes in Azamgarh, Uttar Pradesh. Vinod (Appellant/Claimant) is married with Suman and having three children, Raj, Rishabh & Lucky.

9. The Appellant/Claimant has stated that he along with his wife, Suman, and all the three children, Raj, Rishabh & Lucky, is living in a double storey Jhuggi No. F-37, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and a pucca staircase has been constructed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has stated that this Jhuggi No. F-37 was also later on given Jhuggi No. CN-356. Thus Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) is one & the same Jhuggi and accordingly some documents have been got issued by the Appellant/Claimant on the address of Jhuggi No. F-37 whereas some documents have been issued on the address of Jhuggi No. CN-356 at different point of time.

10. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. F-37/CN-356 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claimed allotment from DDA against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has admittedly sought allotment from DDA against the said double storey Jhuggi No. F-37/CN-356 and further, he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 30 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-Z and Annexure-ZA to Annexure-ZC, in support of his claim and prayed that DDA be directed to make allotment in his favour.

14.10.2024 14/10/2024 14/10/2024

11. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 07.10.2024 wherein he has stated that the Appellant/Claimant Vinod Kumar has sought alternative allotment form DDA against the double storey Jhuggi No. F-37/CN-356, Jailorwala Bagh but his claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further he has claimed allotment against the upper floor. The Rejection order was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified/upper floor"**. Aggrieved by the same, the Appeal No. 30 of 2024 has been filed by the present Appellant/ Claimant. Therefore, it is prayed that this Appellate Authority should take holistic view and legality of all the grounds be thoroughly considered to independently determine the eligibility of the Appellant/ Claimant as per the policy guidelines issued by DDA.

12. DDA has furnished survey records along with one video clip of Jhuggi No. F-37/CN-356. As per survey records the survey was got conducted by Suman, who is the wife of the Appellant/Claimant, of Jhuggi No. F-37/CN-356 on 18.03.2020 on the ground floor of the said Jhuggi and the photograph (Annexure-ZB) of his wife Suman & the front gate of the said Jhuggi is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished the survey records along with one video clip of Jhuggi No. F-37/CN-356. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 14.06.2024 wherein the Appellant/Claimant has stated that the video clip pertains to the Jhuggi No. F-37/CN-356 in which from outside the Jhuggi is seen to be a double storey pucca structure and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is seen holding a slate in his hand on which **"F-37 VINOD KUMAR G.F"** is seen to have been written.

14. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi F-37/CN-356, which were prepared by the survey team of DDA and also played before him when his

14.10.2024 14/10/2024 14/10/2024

statement was recorded before us on 07.10.2024 wherein he has stated that from outside the Jhuggi is seen to be a double storey pucca structure and further, the Appellant/Claimant is seen and getting the survey conducted and his room & kitchen are also seen and further, he is seen holding a slate in his hand on which **"F-37 VINOD KUMAR G.F"** is seen to have been written.

15. It is pertinent to point out that the photograph (Annexure-ZB) of Suman, who is the wife of the Appellant/Claimant, taken by the survey team at the time of survey shows that Suman is seen standing in front of the door of the Jhuggi No. F-37 and further the documents pertaining to the present Appellant/Claimant are seen to have been pasted on the door of the Jhuggi No. F-37 and this shows that there is no dispute with regard to the identity of the Jhuggi. Furthermore, in the video clip prepared by the survey team of DDA the Appellant/Claimant is also seen holding a slate in his hand on which **"F-37 VINOD KUMAR G.F"** is seen to have been written. Further in the EDC Note dated 08.01.2023 (Annexure-ZC) it is clearly mentioned that as per the survey records the Jhuggi of the Appellant/Claimant was found to exist and further it is no where disputed that Jhuggi No. F-37 and CN-356 are two different Jhuggis. This corroborates the statement of the Appellant/Claimant that Jhuggi No. F-37 was later on given different number, i.e., Jhuggi No. CN-356. Thus Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) is one & the same Jhuggi and accordingly in normal course some documents have been got issued by the Appellant/Claimant on the address of Jhuggi No. F-37/CN-356 whereas some documents have been issued on the address of Jhuggi No. F-37 at different point of time

16. The statement of the Appellant/Claimant as well as the photograph (Annexure-ZB) of his wife Suman taken by the survey team at the time of survey and also the video clip prepared by the survey team of DDA clearly shows that the Appellant/Claimant is having double storey Jhuggi, which happened to be bearing two numbers at different point of time, namely, Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) but both the numbers pertain to same Jhuggi being one dwelling unit. Furthermore, the claim of the Appellant/Claimant has been rejected by the EDC on the grounds **"Voter Card Not verified/upper floor"** but the existence of the Jhuggi of the Appellant/Claimant is not disputed by DDA.

17. It is admitted in the course of arguments that there was no proper mechanism to give numbers to the dwelling units/Jhuggis in Jailor Wala Bagh, Ashok Vihar. Pradhan of the

14.10.2024 S/Rawat 14/10/2024 14/10/2024

respective community had come with an idea to give numbers to the Jhuggis and this was consented by all the dwellers. Therefore, the numbers on almost all the Jhuggis were given by the Pradhan/dwellers of their own without following any settled pattern. The procedure was not streamlined as some of the Jhuggis were given the same numbers. Further in the fire several Jhuggis of Jailor Wala Bagh, Ashok Vihar were destroyed about 20 years ago and the Jhuggis engulfed in the fire were reconstructed and even the numbers of Jhuggis were changed thereby giving new numbers to the freshly re-constructed Jhuggis. This led to changing of Jhuggi numbers in majority of cases and accordingly some of the documents bear old addresses whereas new documents were got issued by the dwellers on the new addresses even though the Jhuggi remained same but it bears different old & new numbers. Furthermore, DDA had conducted survey in different stages spread to long interval and number plates giving the "Names of the owner & Number of the Jhuggis" were affixed. Different survey numbers were given by DDA and video clippings were also prepared. In view of the matter the dwellers cannot be penalized because their Jhuggis bore different numbers at different time. The surveys records along with the video clip placed on file corroborates the statement of the Appellant/Claimant. Therefore, there is nothing to disbelieve that the family of the Appellant/Claimant is having double storey Jhuggi, which happened to be bearing two numbers at different point of time, namely, Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) and further both the numbers pertain to the same Jhuggi being one dwelling unit. The Appellant/Claimant along with his family is living separately & independently and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee and aggrieved by the same he has filed the present Appeal No. 30 of 2024 before the Appellate Authority for redressal.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 08.01.2023

18. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

19. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 08.01.2023 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-63/47.G dated 01.02.2023

14.10.2024 S Mawat 14/10/2024 14/10/2024

(Annexure-ZA) to the present Appellant/Claimant and the EDC Note dated 08.01.2023 (Annexure-ZC) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 08.01.2023 (Annexure-ZC)

> *"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.05.2022 for organized a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. Wherein, the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on the Ground and the policy guidelines for alternate allotment in cases of Ground/Upper floor is as under.*
>
> *2. As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under: - The name of JJ dwellers must appear in at least one of the Voter Lists of the Year's 2012,2013,2014,2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However, the name of the applicant appears in voter lists of year 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey, the Voter Card No-JPF 0777086 / WHC 0340356 submitted by the applicant not found valid.*
>
> *3. The applicant/claimant has failed to submit valid voter ID. Card; Hence, the applicant/claimant does not fulfill the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment."*

20. The survey records placed on file shows that the Jhuggi No. F-37/CN-356 of the Appellant/ Claimant was found to exist but his claim was rejected by EDC on 08.01.2023 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-ZA) because had his Jhuggi been found on the upper floor then EDC would have considered as to whether he was having a separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for the upper floor. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the double storey Jhuggi No. F-37/CN-356. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to him by the

14.10.2024 14/10/2024 14/10/2024

Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 08.01.2023 (Annexure-ZC) it has been mentioned that the Voter ID Card No. JPF 0777086 / WHC 0340356 was not a valid document and further his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey and further in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that he was not having a separate Ration Card. The bare perusal of the EDC Note dated 08.01.2023 (Annexure-ZC) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 08.01.2023 (Annexure-Z-C). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) needs to be determined. Here it is pertinent to point that the remarks given in the EDC Note dated 08.01.2023 (Annexure-ZC) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0777086 / WHC 0340356 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. Accordingly, we shall appraise the material placed on file to determine whether the Voter ID Card No. JPF 0777086 / WHC 0340356 of the Appellant/ Claimant is a valid document or not in the later part of this order.

21. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment

14.10.2024 Rawat 14/10/2024 14/10/2024

against the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) as per the policy guidelines issued by DDA.

22. As per our discussion above, the bare perusal of the EDC Note dated 08.01.2023 (Annexure-ZC) shows that it is no where disputed by DDA as far as the existence of the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently and using it for residential purposes is concerned but his claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified inspite of the fact that his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit comprising of the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) except that she was allegedly not having all the requisite documents.

23. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photograph/video clip, about the existence of the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined). Thus the statement of the Appellant/Claimant as well as the survey records/ photograph/video clips has duly proved that the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is living in the said double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) and the same has been used by him for residential purposes.

24. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living in the said double storey storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) and further the Appellant/Claimant has been using

14.10.2024 Rawat 14/10/2024 14/10/2024

the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

25. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the said double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) 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-Z and Annexure-ZA to Annexure-ZC, in support of his claim and prayed that DDA be directed to make allotment in his favour.

27. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-63/47.G dated 01.07.2023.

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

14.10.2024 14/10/2024 14/10/2024

"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.

14.10.2024 14/10/2024 14/10/2024

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

14.10.2024 14/10/2024

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

14.10.2024 Rawat 14/10/2024 14/10/2024

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

14.10.2024 14/10/2024 14/10/2024

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

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

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

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

14.10.2024 Mawat 14/10/2024 14/10/24

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

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

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

14.10.2024 Rawat 14/10/2024 14/10/2024

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

14.10.2024 Mawat 14/10/2024 14/10/2024

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

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

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

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

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

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

14.10.2024 14/10/2024 14/10/2024

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

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

51. It is pointed out that we have already held that the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

52. It is also pointed out that we have already held that the survey records placed on file shows that the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) of the Appellant/ Claimant was found to exist but his claim was rejected by EDC on 08.01.2023 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-ZA) because had his Jhuggi been found on the upper floor then EDC would have considered as to whether he was having a separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for the upper floor. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the double storey Jhuggi No. F-37/CN-356. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby the reasons for rejection is mentioned to be **"Voter Card Not**

14.10.2024 14/10/2024 14/10/2024

verified / Upper Floor" in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 08.01.2023 (Annexure-ZC) it has been mentioned that the Voter ID Card No. JPF 0777086 / WHC 0340356 was not a valid document and further his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey and further in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that he was not having a separate Ration Card. The bare perusal of the EDC Note dated 08.01.2023 (Annexure-ZC) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 08.01.2023 (Annexure-Z-C). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) needs to be determined. Here it is pertinent to point that the remarks given in the EDC Note dated 08.01.2023 (Annexure-ZC) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0777086 / WHC 0340356 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card No. JPF 0777086 / WHC 0340356 on the cutoff date of 01.01.2015 and further whether his name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

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

14.10.2024 14/10/2024 14/10/2024

policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) as per the policy guidelines issued by DDA.

54. The Appellant/Claimant has tendered his four Voter ID Cards (Annexure-A to Annexure-D), Aadhar Card (Annexure-E), PAN Card (Annexure-F), the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-V), Voter List of the year 2013 (Annexure-W), Voter List of the year 2014 (Annexure-X), Voter List of the year 2015 (Annexure-Y) and Voter List of the year 2024 (Annexure-Z).

55. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-Z and Annexure-ZA to Annexure-ZC, in support of his claim. the Appellant/Claimant has tendered his four Voter ID Cards (Annexure-A to Annexure-D). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 0777086 and it has been issued on the address of the Jhuggi No. F-37 on 27.07.2003. The second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 0340356 and it has been issued on the address of the Jhuggi No. F-37 on 18.10.2008. The third Voter ID Card (Annexure-C) of the Appellant/Claimant is bearing number WHC 3588936 and it has been issued on the address of the Jhuggi No. CN-356 on 27.07.2021. The fourth Voter ID Card (Annexure-D) of the Appellant/Claimant is bearing number WHC 3678737 and it has been issued on the address of the Jhuggi No. F-37 on 29.11.2023. The Appellant/Claimant has tendered his Aadhar Card No. 2530 5666 0933 (Annexure-E), which has been issued on the address of the Jhuggi No. F-37. Further, all the above mentioned documents (Annexure-A, Annexure-B, Annexure-D & Annexure-E) have been issued on the address of the Jhuggi No. F-37 whereas the document (Annexure-C) have been issued on the address of the Jhuggi No. CN-356. Further, the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified that the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 952 in the Voter List of the year 2012 (Annexure-V), at Sl. No. 952 in the Voter List of the year 2013 (Annexure-W), at Sl. No. 1056 in the Voter

14.10.2024 14/10/2024 14/10/2024

List of the year 2014 (Annexure-X) and at Sl. No. 1229 in the Voter List of the year 2015 (Annexure-Y). In all the documents (Annexure-B and Annexure-V to Annexure-Y) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37. Furthermore, the fourth Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D) of the Appellant/Claimant is also a valid document and it is also reflected in the the Voter List of the year 2024 (Annexure-Z) and in documents (Annexure-D and Annexure-Z), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37.

56. It is pointed out that the Appellant/Claimant has tendered his four Voter ID Cards (Annexure-A to Annexure-D). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 0777086 and it has been issued on the address of the Jhuggi No. F-37 on 27.07.2003, much prior to the cutoff date 01.01.2015. The second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 0340356 and it has been issued on the address of the Jhuggi No. F-37 on 18.10.2008, much prior to the cutoff date 01.01.2015. The third Voter ID Card (Annexure-C) of the Appellant/Claimant is bearing number WHC 3588936 and it has been issued on the address of the Jhuggi No. CN-356 on 27.07.2021, much after to the cutoff date 01.01.2015. The fourth Voter ID Card (Annexure-D) of the Appellant/Claimant is bearing number WHC 3678737 and it has been issued on the address of the Jhuggi No. F-37 on 29.11.2023, much after to the cutoff date 01.01.2015. The Appellant/Claimant has tendered his Aadhar Card No. 2530 5666 0933 (Annexure-E), which has been issued on the address of the Jhuggi No. F-37 regarding which the Appellant/Claimant has been claiming allotment from DDA.

57. Thus all the above mentioned documents (Annexure-A, Annexure-B, Annexure-D & Annexure-E) have been issued on the address of the Jhuggi No. F-37 whereas the document (Annexure-C) has been issued on the address of the Jhuggi No. CN-356. It is pointed out that the material placed on files shows that previously the Jhuggi of the Appellant/Claimant was bearing Jhuggi No. F-37, Jailorwala Bagh, Ashok Vihar. Further, this very Jhuggi No. F-37 was also later on given Jhuggi No. CN-356. Thus Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) is one & the same Jhuggi and accordingly some documents have been got issued by the Appellant/Claimant on the address of Jhuggi No. F-37 whereas some documents have been issued on the address of Jhuggi No. CN-356 at different point of time. The statement of the Appellant/Claimant as well the survey records and the photograph/video clip placed on file shows that the Jhuggi bearing number Jhuggi No. CN-

14.10.2024 14/10/2024 14/10/2024

356 and F-37 or F-37/CN-356 (when written as combined) relates to the one and the same Jhuggi i.e., the double storey Jhuggi of the Appellant/Claimant regarding which the Appellant/Claimant is claiming allotment from DDA.

58. It is also pointed out that in the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 952 in the Voter List of the year 2012 (Annexure-V), at Sl. No. 952 in the Voter List of the year 2013 (Annexure-W), at Sl. No. 1056 in the Voter List of the year 2014 (Annexure-X) and at Sl. No. 1229 in the Voter List of the year 2015 (Annexure-Y). It is also pointed out that in all the documents (Annexure-B and Annexure-V to Annexure-Y) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. Thus, the Appellant/Claimant was having a valid Voter ID Card No. WHC 0340356 dated 18.10.2008 (Annexure-B), which is issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. F-37 regarding which he is claiming allotment from DDA and this voter ID Card was used by the Appellant/Claimant to cast vote in the years 2012 to 2015.

59. As already pointed out above in the EDC Note dated 08.01.2023 (Annexure-ZC) it has been mentioned that the Voter ID Card No. JPF 0777086 / WHC 0340356 was not found to be a valid document even though her name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in the year of survey. Here it is pertinent to point that the remarks given in the EDC Note dated 08.01.2023 (Annexure-ZC) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0777086 / WHC 0340356 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in the year of survey. It is pertinent to point out that the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur shows that Voter ID Card No. WHC 0340356 (Annexure-B) is a valid document as it has been verified as per the records of the Election Commission and further, this Voter ID Card No. JPF 0680082 (Annexure-A) has been reflected in the Voter List of the years 2012 to 2015. Accordingly, the Voter ID Card

14/10/2024 14/10/2024 14/10/2024

No. JPF 0777086 / WHC 0340356 of the Appellant/ Claimant having found not to be a valid document as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 08.01.2023 (Annexure-ZC). Accordingly, we have no hesitation in holding that the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/ Claimant is a valid document but this fact was ignored by the EDC.

60. It is also pointed out that the Appellant/Claimant has tendered his fourth Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D) which has been issued on the address of the Jhuggi No. F-37. Furthermore, in the Voter List of the year 2024 (Annexure-Z), the name of the Appellant/Claimant appears at Sl. No. 1023 and in that the number of the Voter ID Card is mentioned to be WHC 3678737 (Annexure-D). This shows that the fourth Voter ID Card No. WHC 3678737 (Annexure-D) of the Appellant/Claimant is also a valid document and it is also reflected in the the Voter List of the year 2024 (Annexure-Z). It is also pointed out that in documents (Annexure-D and Annexure-Z), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. Thus, the Appellant/Claimant was also having a valid Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D), which is issued after the cutoff date of 01.01.2015 on the address of Jhuggi No. F-37 regarding which he is claiming allotment from DDA and this voter ID Card was used by the Appellant/Claimant to cast vote in the years 2024.

61. The Appellant/Claimant has stated that his first Voter ID Card No. JPF 0777086 dated 27.07.2003 (Annexure-A) was misplaced and he had tried to get the duplicate issued but in vain. Accordingly, on the advice of some persons he had got the second Voter ID Card No. WHC 0340356 dated 18.10.2008 (Annexure-B) issued in his favour. However, the Election Commission had withdrawn the "Black & White series" and instead issued "coloured series" and consequently the Voter ID Card No. WHC 0340356 dated 18.10.2008 (Annexure-B) of the "Black & White series" was withdrawn and in its place the third Voter ID Card No. WHC 3588936 dated 27.07.2021 (Annexure-C) of the "coloured series" was issued in his favour. However, the third Voter ID Card No. WHC 3588936 dated 27.07.2021 (Annexure-C) was misplaced by him and accordingly on the advice of friends he had got the fourth Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D) issued in his favour.

62. There is nothing to disbelieve the Appellant/Claimant that on the ill advice of some friends

14.10.2024 14/10/2024 14/10/2024

he had got the second Voter ID Card No. WHC 0340356 dated 18.10.2008 (Annexure-B) issued in his favour when he had lost his first Voter ID Card No. JPF 0777086 dated 27.07.2003 (Annexure-A). However, the Appellant/Claimant has nothing to do about the issuance of the third Voter ID Card No. WHC 3588936 dated 27.07.2021 (Annexure-C) in place of his second Voter ID Card No. WHC 0340356 dated 18.10.2008 (Annexure-B) by the Election Commission when the Election Commission had withdrawn the "Black & White series" and instead issued "coloured series". Furthermore, on the ill advice of some friends the Appellant/Claimant had got the fourth Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D) issued in his favour when he had lost his third Voter ID Card No. WHC 3588936 dated 27.07.2021 (Annexure-C). The Appellant/Claimant cannot be denied his right to claim alternative allotment from DDA simply because he happened to be having four Voter ID Cards especially when he had reasonably explained the reasons for having four Voter ID Cards at different point of time and further when two of the Voter ID Cards, namely, the second Voter ID Card No. WHC 0340356 dated 18.10.2008 (Annexure-B) has been found to be a valid documents and used to cast vote in the years from 2012 to 2015 and further the fourth Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D) has also been found to be a valid documents and used to cast vote in the year 2024.

63. There is no doubt that the Appellant/Claimant has tendered his four Voter ID Cards (Annexure-A to Annexure-D) but this fact alone is not sufficient to discard his claim. The material placed on file shows that the second Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37 on 18.10.2008, much prior to the cutoff date 01.01.2015 and further the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 952 in the Voter List of the year 2012 (Annexure-V), at Sl. No. 952 in the Voter List of the year 2013 (Annexure-W), at Sl. No. 1056 in the Voter List of the year 2014 (Annexure-X) and at Sl. No. 1229 in the Voter List of the year 2015 (Annexure-Y). It is also pointed out that in all the documents (Annexure-B and Annexure-V to Annexure-Y) the address of the Appellant / Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant /

14.10.2024 Rawat 14/10/2024 14/10/2024

Claimant is claiming allotment from DDA.

64. It is pointed out that we have already held that the bare perusal of the EDC Note dated 08.01.2023 (Annexure-ZC) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 08.01.2023 (Annexure-Z-C). Furthermore, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) needs to be determined. Here it is pertinent to point that the remarks given in the EDC Note dated 08.01.2023 (Annexure-ZC) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0777086 / WHC 0340356 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015. But as pointed out above the material placed on file shows that the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant is a valid document because the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015 and accordingly the ground of the Voter ID Card of the Appellant/ Claimant having found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 08.01.2023 (Annexure-Z-C).

65. The material placed on file shows that the second Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37 on 18.10.2008, much prior to the cutoff date 01.01.2015 and further the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years

14-10-2024 14/10/2024 14/10/2024

from 2012 to 2015 (Annexure-V to Annexure-Y). Furthermore, the fourth Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D) of the Appellant/Claimant is also a valid document and it is also reflected in the the Voter List of the year 2024 (Annexure-Z. It is also pointed out that in documents (Annexure-B, Annexure-D and Annexure –V to Annexure-Z), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. Furthermore, the issuance of four Voter ID Cards shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. F-37 from 27.07.2003 (date of issuance of the first Voter ID Card No. JPF 0777086 - Annexure-A) & from 18.10.2008 (date of issuance of the second Voter ID Card No. WHC 0340356 - Annexure-B) to 29.11.2023 (date of issuance of the fourth Voter ID Card No. WHC 3678737 - Annexure-D).

66. A per our discussion above, DDA has not disputed about the existence of the Jhuggi of the Appellant/Claimant bearing Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined), Jailorwala Bagh, Ashok Vihar but the claim of the present Appellant/Claimant was rejected by the EDC and the rejection order was communicated to him in which the reason for rejection is mentioned to be **"Voter ID not verified/upper floor"** and further the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) has already been held not sustainable by this Appellate Authority being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 08.01.2023 (Annexure-Z-C). It is also pointed out that the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card. As pointed out above, the Appellant/Claimant has tendered his four Voter ID Cards (Annexure-A to Annexure-D). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 077086 and it has been issued on the address of the Jhuggi No. F-37 on 27.07.2003, much prior to the cutoff date 01.01.2015. The second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 0340356 and it has been issued on the address of the Jhuggi No. F-37 on 18.10.2008, much prior to the cutoff date 01.01.2015. The third Voter ID Card (Annexure-C) of the Appellant/Claimant is bearing number WHC 3588936 and it has been issued on the address of the Jhuggi No. CN-356 on 27.07.2021, much after to the cutoff date 01.01.2015. The fourth Voter ID Card (Annexure-D) of the Appellant/Claimant is bearing number WHC 3678737 and it has been issued on the address of the Jhuggi No. F-37 on 29.11.2023, much after to the cutoff date 01.01.2015. Further,

14.10.2024 Rawat 14/10/2024 14/10/2024

the Appellant/Claimant has explained the reasons for having four Voter ID Cards at different point of time. The Appellant/Claimant has tendered his Aadhar Card No. 2530 5666 0933 (Annexure-E), which has been issued on the address of the Jhuggi No. F-37 regarding which the Appellant/Claimant has been claiming allotment from DDA. Thus all the above mentioned documents (Annexure-A, Annexure-B, Annexure-D & Annexure-E) have been issued on the address of the Jhuggi No. F-37 whereas the document (Annexure-C) has been issued on the address of the Jhuggi No. CN-356. It is pointed out that the material placed on files shows that previously the Jhuggi of the Appellant/Claimant was bearing number double storey Jhuggi No. F-37, Jailorwala Bagh, Ashok Vihar. Further, this very Jhuggi No. F-37 was also later on given Jhuggi No. CN-356. Thus Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) is one & the same Jhuggi and accordingly some documents have been got issued by the Appellant/Claimant on the address of Jhuggi No. F-37 whereas some documents have been issued on the address of Jhuggi No. CN-356 at different point of time. The statement of the Appellant/Claimant as well the survey records and the video clip placed on file shows that the Jhuggi bearing number Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) relates to the one and the same Jhuggi i.e., the double storey Jhuggi of the Appellant/Claimant regarding which the Appellant/Claimant is claiming allotment from DDA. Furthermore, the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 952 in the Voter List of the year 2012 (Annexure-V), at Sl. No. 952 in the Voter List of the year 2013 (Annexure-W), at Sl. No. 1056 in the Voter List of the year 2014 (Annexure-X) and at Sl. No. 1229 in the Voter List of the year 2015 (Annexure-Y). It is also pointed out that in all the documents (Annexure-B and Annexure-V to Annexure-Y) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. Moreover, in the Voter List of the year 2024 (Annexure-Z), the name of the Appellant/Claimant appears at Sl. No. 1023 and in that the number of the Voter ID Card is mentioned to be WHC 3678737 (Annexure-D). This shows that the fourth Voter ID Card No. WHC 3678737 (Annexure-D) of the Appellant/Claimant is also a valid document and it is also reflected in the the Voter List of

14.10.2024 14/10/2024 14/10/2024

the year 2024 (Annexure-Z. It is also pointed out that in documents (Annexure-D and Annexure-Z), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA.

67. Thus the material placed on file shows that the second Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37 on 18.10.2008, much prior to the cutoff date 01.01.2015 and further the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015 (Annexure-V to Annexure-Y). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 952 in the Voter List of the year 2012 (Annexure-V), at Sl. No. 952 in the Voter List of the year 2013 (Annexure-W), at Sl. No. 1056 in the Voter List of the year 2014 (Annexure-X) and at Sl. No. 1229 in the Voter List of the year 2015 (Annexure-Y). It is also pointed out that in all the documents (Annexure-B and Annexure-V to Annexure-Y) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. The material placed on file shows that the second Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37 on 18.10.2008, much prior to the cutoff date 01.01.2015 and further the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015 (Annexure-V to Annexure-Y). Furthermore, the fourth Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D) of the Appellant/Claimant is also a valid document and it is also reflected in the the Voter List of the year 2024 (Annexure-Z. It is also pointed out that in documents (Annexure-B, Annexure-D and Annexure –V to Annexure-Z), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. Furthermore, the issuance of four Voter ID Cards shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. F-37 from 18.10.2008 (date of issuance of Voter ID Card -

14.10.2024 14/10/2024 14/10/2024

Annexure-B) to 29.11.2023 (date of issuance of Voter ID Card - Annexure-D) and even till today.

68. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013, 2014, 2015 and 2024.

69. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because his name does not appear in the year of survey, i.e., 2020 (because as per the survey records placed on file survey/videography was conducted on 18.03.2020) even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012 to 2015 and 2024.

70. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

(iv) in any year if such revision has been directed by the Election Commission.

71. Therefore, the reasons for not tendering the Voter List of the year 2020 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the year 2020 (year of survey) when it was not prepared/ available with the Election Commission.

72. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains the first Voter ID Card on 27.07.2003 & second Voter ID Card on 18.10.2008, before the cutoff date of 01.01.2015 whereas third Voter ID Card on 27.07.2021 & fourth Voter ID Card on 29.11.2023, after the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears continuously appear in the voter list of the year's 2012 to 2015 and 2024 but their name happened to be not appearing in the Voter List of the year 2020 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID

14.10.2024 14/10/2024

Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter list of the year 2020 even though they possess all the relevant documents, including a valid Voter Id Card on the cutoff date of 01.01.2015 and further their name continuously appears in the voter list of the year's 2012 to 2015 & 2024 and further all these documents in unequivocal terms shows that they have been continuously living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the year 2020 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the voter list of the year 2020 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No. JPF 0777086 dated 27.072.2003 (Annexure-A), which has been issued on the address of Jhuggi No. F-37 and Voter ID Card No. WHC 0340356 dated 18.10.2008 (Annexure-B), which has been issued on the address of Jhuggi No. F-37 and further the Appellant/Claimant was also having Voter ID Cards issued after the cutoff date of 01.01.2015 bearing Voter ID Card No. WHC 3588936 dated 27.07.2021 (Annexure-C), which has been issued on the address of Jhuggi No. CN-356 & Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D), which has been issued on the address of Jhuggi No. F-37. The Appellant/Claimant is also having the Aadhar Card No. 2530 5666 0933 (Annexure-D), which has also been issued on the address of the Jhuggi No. F-37, Jailorwala Bagh, regarding which he is claiming allotment from DDA. Further, the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015 (Annexure-V to Annexure-Y). Furthermore, the name of the

14.10.2024 14/10/2024 14/10/2024

Appellant/Claimant appears at Sl. No. 952 in the Voter List of the year 2012 (Annexure-V), at Sl. No. 952 in the Voter List of the year 2013 (Annexure-W), at Sl. No. 1056 in the Voter List of the year 2014 (Annexure-X) and at Sl. No. 1229 in the Voter List of the year 2015 (Annexure-Y). It is also pointed out that in all the documents (Annexure-B and Annexure-V to Annexure-Y) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. The material placed on file shows that the second Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37 on 18.10.2008, much prior to the cutoff date 01.01.2015 and further the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015 (Annexure-V to Annexure-Y). Furthermore, it is also pointed out that the fourth Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D) of the Appellant/Claimant is also a valid document and it is also reflected in the the Voter List of the year 2024 (Annexure-Z. It is also pointed out that in documents (Annexure-B, Annexure-D and Annexure –V to Annexure-Z), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. This shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. F-37 from 18.10.2008 (date of issuance of the second Voter ID Card - Annexure-B) to 29.11.2023 (date of issuance of the fourth Voter ID Card - Annexure-D) and even till today. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-37/CN356 regarding which he has been claiming allotment from DDA and further his name also appears in the voter list of the year's 2012 to 2015 and 2024.

73. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating

14.10.2024 14/10/2024 14/10/2024

to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

74. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
>
> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the*

14.10.2024 Rawat 14/10/2024 14/10/2024

person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

75. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

76. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and he is also found to be having a valid Voter ID Card on the cutoff date of 01.01.2015 and also a Aadhar Card and further he possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view especially when he was having a valid Voter ID Card on the cutoff date of 01.01.2015 & Aadhar Card No. 2530 5666 0933 (Annexure-E) and further his name also appears continuously in the Voter Lists from the years 2012 to 2015 and 2024 (Annexure-V to Annexure-Y and Annexure-Z) and all the documents have been issued on the address

14.10.2024 Rawat 14/10/2024 14/10/2024

of Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) regarding which he is claiming allotment from DDA and further he as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

77. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in any of the voter list of the year's 2012 to 2015 and 2024 and further the reasons for his name having not reflected in the Voter List of year of survey has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly the second ground of the Voter ID Card of the Appellant/ Claimant having not found to have verified as reflected in the EDC Note dated 08.01.2023 (Annexure-Z-C and also in the Rejection Order dated 01.07.2023 (Annexure-ZA) is not sustainable being erroneous, wrong and against the facts found by this Appellate Authority.

78. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with his family was living in Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lend support to the claim put forward by the Appellant/Claimant.

79. The Appellant/Claimant has tendered his Driving License (Annexure-G), e-SHRAM Card (Annexure-H), Voter ID Card No. WHC 3588944 (Annexure-I), Aadhar Card (Annexure-J), e-SHRAM Card (Annexure-K) & PAN Card (Annexure-L) of his wife Suman as well as the Abha Cards (Annexure-M to Annexure-P) of the Appellant/Claimant, his wife Suman and sons, Rishab & Raj respectively and also Aadhar Card (Annexure-Q) of his son Raj, the Passbook of UCO Bank (Annexure-R), the Passbook of Axis Bank (Annexure-S) and the Passbook of Indian Bank (Annexure-T) in support of his claim.

80. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-G to Annexure-T, in support of his claim. The Driving License (Annexure-G) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37 and further, it has been issued on 05.02.2007, much prior to the cutoff date 01.01.2015. The e-SHRAM Card (Annexure-H) of the

14.10.2024 Mawat 14/10/2024 14/10/2024

Appellant/Claimant has been issued on the address of the Jhuggi No. CN-356. It is also pointed out that the Voter ID Card No. WHC 3588944 (Annexure-I) of his wife Suman has been issued on the address of Jhuggi No. CN-356 on 27.07.2021 and further, her Aadhar Card No. 2787 4727 3134 (Annexure-J) has been issued on the address of the Jhuggi No. CN-356 on 20.08.2021. The e-SHRAM Card (Annexure-K) of his wife Suman and the PAN Card (Annexure-L) are also tendered. The Appellant/Claimant has also tendered Health Card (Annexure-M to Annexure-P) of the Appellant/Claimant, his wife Suman and sons, Rishab & Raj respectively. Furthermore, Aadhar Card No. 7056 3467 3328 (Annexure-Q) of his son, Raj has been issued on the address of the Jhuggi No. F-37. The Passbook of UCO Bank (Annexure-R) shows that the Appellant/Claimant had opened the account on the address of Jhuggi No. F-37 on 09.01.2017. The Passbook of Axis Bank (Annexure-S) shows that his son Raj had opened the account on 28.10.2023 on the address of the Jhuggi No. CN-356 and the Passbook of Indian Bank (Annexure-T) shows that his son, Raj had opened the account on 26.08.2016 on the address of the Jhuggi No. F-37.

81. It is pointed out that the Driving License (Annexure-G) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37 regarding which he is claiming allotment from DDA and further, it has been issued on 05.02.2007, much prior to the cutoff date 01.01.2015. The e-SHRAM Card (Annexure-H) of the Appellant/Claimant has been issued on the address of the Jhuggi No. CN-356. It is also pointed out that the Voter ID Card No. WHC 3588944 (Annexure-I) of his wife Suman has been issued on the address of Jhuggi No. CN-356 on 27.07.2021 and further, her Aadhar Card No. 2787 4727 3134 (Annexure-J) has been issued on the address of the Jhuggi No. CN-356 on 20.08.2021. The e-SHRAM Card (Annexure-K) of his wife Suman and the PAN Card (Annexure-L) are also tendered. The Appellant/Claimant has also tendered Health Card (Annexure-M to Annexure-P) of the Appellant/Claimant, his wife Suman and sons, Rishab & Raj respectively. Furthermore, Aadhar Card No. 7056 3467 3328 (Annexure-Q) of his son, Raj has been issued on the address of the Jhuggi No. F-37. The Passbook of UCO Bank (Annexure-R) shows that the Appellant/Claimant had opened the account on the address of Jhuggi No. F-37 on 09.01.2017. The Passbook of Axis Bank (Annexure-S) shows that his son Raj had opened the account on 28.10.2023 on the address of the Jhuggi No. CN-356 and the Passbook of Indian Bank (Annexure-T) shows that his son, Raj had opened the account on 26.08.2016 on the address of the Jhuggi No. F-37.

14.10.2024 Rawat 14/10/2024 14/10/2024

82. The Appellant/Claimant has tendered his documents and also of his family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, e-SHRAM Cards, Health Cards and Bank Passbooks etc. and all these documents have been issued from 2003 to 2024 and it accordingly amply establishes that he as well as his family members have been living jointly in the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined), Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

83. In view of the matter as per our discussion above, the material placed on file supports the claim of the Appellant/ Claimant and shows that the Appellant/ Claimant fulfils the eligibility criteria as per the policy guidelines issued by DDA as under: -

(a) The material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/ Claimant was and still living separately & independently in the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined), Jailorwala Bagh, Ashok Vihar, which constitute single dwelling unit. The statement of the Appellant/Claimant as well the survey records and the video clip placed on file shows that the Jhuggi bearing number Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined) relates to the one and the same Jhuggi i.e., the double storey Jhuggi of the Appellant/Claimant regarding which the Appellant/Claimant is claiming allotment from DDA. Further as per our discussion above, the documents, Annexure-A to Annexure-Z and Annexure- ZA to Annexure-ZC, shows that the Appellant/Claimant was having four Voter ID Cards (Annexure-A to Annexure-D) at different point of time. The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 0777086 and it has been issued on the address of the Jhuggi No. F-37 on 27.07.2003, much prior to the cutoff date 01.01.2015. The second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 0340356 and it has been issued on the address of the Jhuggi No. F-37 on 18.10.2008, much prior to the cutoff date 01.01.2015. The third Voter ID Card (Annexure-C) of the Appellant/Claimant is bearing number WHC 3588936 and it has been issued on the address of the Jhuggi No. CN-356 on 27.07.2021, much after to the cutoff date 01.01.2015. The fourth Voter ID Card (Annexure-D) of the Appellant/Claimant is bearing number WHC 3678737 and it has been issued on the address of the Jhuggi No. F-37 on 29.11.2023, much after to the cutoff date 01.01.2015.

14.10.2024 Rawat 14/10/2024 14/10/2024

The reasons for having four Voter ID Cards (Annexure-A to Annexure-D) has been well explained in this case. It is also pointed out that in the document (Annexure-C), the address of the Appellant/Claimant is mentioned to be Jhuggi No. CN-356 and in the documents (Annexure-A, Annexure-B, Annexure-D and Annexure-V to Annexure-Z), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. Furthermore, the issuance of four Voter ID Cards shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. F-37 from 27.07.2003 (date of issuance of the first Voter ID Card No. JPF 0777086 - Annexure-A) & from 18.10.2008 (date of issuance of the second Voter ID Card No. WHC 0340356 - Annexure-B) to 29.11.2023 (date of issuance of the fourth Voter ID Card No. WHC 3678737 - Annexure-D). The Appellant/Claimant has tendered his Aadhar Card No. 2530 5666 0933 (Annexure-E), which has been issued on the address of the Jhuggi No. F-37 regarding which the Appellant/Claimant has been claiming allotment from DDA.

(b) The material placed on file shows that the second Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37 on 18.10.2008, much prior to the cutoff date 01.01.2015 and further the Letter F. No. AERO/AC-17/2024/167 dated 01.05.2024 (Annexure-U) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. WHC 0340356 (Annexure-B) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. WHC 0340356 (Annexure-B) has also been reflected in the Voter List of the years from 2012 to 2015. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 952 in the Voter List of the year 2012 (Annexure-V), at Sl. No. 952 in the Voter List of the year 2013 (Annexure-W), at Sl. No. 1056 in the Voter List of the year 2014 (Annexure-X) and at Sl. No. 1229 in the Voter List of the year 2015 (Annexure-Y). It is also pointed out that in all the documents (Annexure-B and Annexure-V to Annexure-Y) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. Thus, the Appellant/Claimant was having a valid Voter ID Card No. WHC 0340356 dated 18.10.2008 (Annexure-B), which is issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. F-37 regarding which he is claiming allotment from DDA and this voter ID Card was used by the Appellant/Claimant to cast

14.10.2024 14/10/2024 14/10/2024

vote in the years 2012 to 2015.

(c) The material placed on file shows that the fourth Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37. Furthermore, in the Voter List of the year 2024 (Annexure-Z), the name of the Appellant/Claimant appears at Sl. No. 1023 and in that the number of the Voter ID Card is mentioned to be WHC 3678737 (Annexure-D). This shows that the fourth Voter ID Card No. WHC 3678737 (Annexure-D) of the Appellant/Claimant is also a valid document and it is also reflected in the the Voter List of the year 2024 (Annexure-Z). It is also pointed out that in the documents (Annexure-D and Annexure-Z), the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-37 regarding which the Appellant/Claimant is claiming allotment from DDA. Thus, the Appellant/Claimant was also having a valid Voter ID Card No. WHC 3678737 dated 29.11.2023 (Annexure-D), which is issued after the cutoff date of 01.01.2015 on the address of Jhuggi No. F-37 regarding which he is claiming allotment from DDA and this voter ID Card was used by the Appellant/Claimant to cast vote in the years 2024.

(d) The material placed on file also shows that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in any of the voter list of the year's 2012, 2013, 2014, 2015 & 2024 and further the reasons for his name having not reflected in the Voter List of year of survey has been well explained in this case but all these relevant & material facts were not duly considered by EDC.

(e) The material placed on file also shows that the Appellant/Claimant has also tendered his Driving License (Annexure-G), e-SHRAM Card (Annexure-H), Voter ID Card No. WHC 3588944 (Annexure-I), Aadhar Card (Annexure-J), e-SHRAM Card (Annexure-K) & PAN Card (Annexure-L) of his wife Suman as well as the Abha Cards (Annexure-M to Annexure-P) of the Appellant/Claimant, his wife Suman and sons, Rishab & Raj respectively and also Aadhar Card (Annexure-Q) of his son Raj, the Passbook of UCO Bank (Annexure-R), the Passbook of Axis Bank (Annexure-S) and the Passbook of Indian Bank (Annexure-T). It is pointed out that the Driving License (Annexure-G) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-37 regarding which he is claiming allotment from DDA and further, it has been issued on 05.02.2007, much prior to the cutoff date 01.01.2015. The e-SHRAM Card (Annexure-H) of the Appellant/Claimant has been issued on the address of the Jhuggi No. CN-356. It is also

14.10.2024 14/10/2024 14/10/2024

pointed out that the Voter ID Card No. WHC 3588944 (Annexure-I) of his wife Suman has been issued on the address of Jhuggi No. CN-356 on 27.07.2021 and further, her Aadhar Card No. 2787 4727 3134 (Annexure-J) has been issued on the address of the Jhuggi No. CN-356 on 20.08.2021. The e-SHRAM Card (Annexure-K) of his wife Suman and the PAN Card (Annexure-L) are also tendered. The Appellant/Claimant has also tendered Health Card (Annexure-M to Annexure-P) of the Appellant/Claimant, his wife Suman and sons, Rishab & Raj respectively. Furthermore, Aadhar Card No. 7056 3467 3328 (Annexure-Q) of his son, Raj has been issued on the address of the Jhuggi No. F-37. The Passbook of UCO Bank (Annexure-R) shows that the Appellant/Claimant had opened the account on the address of Jhuggi No. F-37 on 09.01.2017. The Passbook of Axis Bank (Annexure-S) shows that his son Raj had opened the account on 28.10.2023 on the address of the Jhuggi No. CN-356 and the Passbook of Indian Bank (Annexure-T) shows that his son, Raj had opened the account on 26.08.2016 on the address of the Jhuggi No. F-37.

(f) The material placed on file further shows that the Appellant/Claimant as well as his wife Suman and children Raj & Rishab are having their respective Voter ID Cards & Aadhar Cards, Electoral Rolls, e-SHRAM Cards and Health Cards etc. and further they are also maintaining Bank accounts on the address of Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined), Jailorwala Bagh, Ashok Vihar and it corroborates that the Appellant/Claimant along with his wife Suman and children have been living jointly in the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined), Jailorwala Bagh, Ashok Vihar.

(g) The material placed on file shows that the Driving License (Annexure-G), e-SHRAM Cards (Annexure-H & Annexure-K), the Health Cards (Annexure-M to Annexure-P) and the Bank Passbooks (Annexure-R to Annexure-T) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with his family members was living in the No. CN-356 and F-37 or F-37/CN-356 (when written as combined), Jailorwala Bagh, Ashok Vihar since long and much prior to the Cutoff date of 01.01.2015 as well as in the years from 2012 to 2015.

84. In view of our findings above, we have no hesitation in holding that the survey records

14.10.2024 14/10/2024 14/10/2024

placed on file shows that the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined), Jailorwala Bagh, Ashok Vihar of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 but his claim was rejected by EDC on 08.01.2023 (Annexure-ZC) and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** The material placed on file shows that the Appellant/Claimant has not claimed allotment from DDA against the first floor but he has claimed allotment against the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined), which is a single dwelling unit and moreover the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in any of the voter list of the year's 2012, 2013, 2014, 2015 and 2024 and further the reasons for his name having not reflected in the Voter List of year of survey has been well explained in this case and further the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and in addition to that the Appellant/Claimant has tendered his documents and also of his family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, e-SHRAM Cards, Health Cards and Bank Passbooks etc. and all these documents have been issued from 2003 to 2024 and it accordingly amply establishes that he as well as his family members have been living jointly in the double storey Jhuggi No. CN-356 and F-37 or F-37/CN-356 (when written as combined), Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds of rejection **"Voter Card Not verified" & "Upper Floor"** are not sustainable in the eyes of law being erroneous, wrong and against the facts. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

85. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 30 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-63/47.G dated

14.10.2024 Mawat 14/10/2024 14/10/2024

01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant, Vinod Kumar S/o Shri Parkash, in respect of the double storey Jhuggi CN-356 and F-37 or F-37/CN-356 (when written as combined), Jailorwala Bagh, Ashok Vihar.

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

14.10.2024 14/10/2024 14/10/2024

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

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

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

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

Appeal No: 74 of 2024

Date of Institution: 12.07.2023

Date of Order: 15.10.2024

Present: Appellant/ Claimant Meena Devi W/o Shiv Mangal

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-842, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-842 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-44/61.G dated 01.07.2023 to

15.10.2024 15/10/2024 15/10/2024

the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 74 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 09.07.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-W, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

6. It is the admitted fact that as per survey records, the Appellant / Claimant's single storey Jhuggi bearing No. H-842 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. H-842 as per

15.10.2024 Rawat 15/10/2024 15/10/24

the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Meena Devi has been recorded before us on 09.07.2024, wherein she has stated that she is married with Shiv Mangal and having two sons, Arvind & Anup and two daugthers, Sweta & Anushka. All the children are unmarried.

9. The Appellant/Claimant has stated that her family is having a single storey pucca Jhuggi no. H-842 and it comprises of one room and having roof made with tin sheets and the entire family is living there.

10. The Appellant/Claimant has stated that she has sought allotment from DDA against the said single storey Jhuggi No. H-842 but her claim has been rejected by the Eligibility Determination Committee on the ground that she was found to be claiming allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly sought allotment against the said single storey pucca Jhuggi No. H-842 and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly aggrieved by the same she has filed the present Appeal No. 74 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-W, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 30.09.2024 wherein he has stated that the Appellant/Claimant Meena Devi has sought alternative allotment form DDA against the Jhuggi No. H-842, Jailorwala Bagh but her claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further she has been found to have claimed allotment against the upper floor. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified/upper floor"**. Aggrieved by the same, the Appeal No. 74 of 2024 has been filed by the present Appellant/ Claimant. Therefore, it is prayed that this Appellate Authority should take holistic view and legality of all the grounds be thoroughly considered to independently determine the eligibility of the Appellant/ Claimant as per the policy guidelines issued by DDA.

12. DDA has furnished survey records along with one video clip of Jhuggi No. H-842. As per

15.10.2024 15/10/2024 15/10/2024

survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-842 on 18.03.2020 on the ground floor of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein and the photographs of the documents and the details of the family members are annexed with the survey records (Annexure-V) is also attached in token thereof. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished the survey records along with one video clip of Jhuggi No. H-842. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 09.07.2024 wherein the Appellant/Claimant has stated that the video clip pertains to the Jhuggi No. H-842 and from outside the said Jhuggi No. H-842 is clearly seen to be a single storey structure and having roof made of tin sheet and further, the Appellant/Claimant is seen and getting the survey conducted of the said Jhuggi No. H-842 and further, her room & kitchen are seen and further, she is also seen holding a slate in her hand on which **"H-842 MEENA DEVI G.F"** is seen to have been written.

14. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi H-842, which were prepared by the survey team of DDA and also played before him when his statement was recorded before us on 30.09.2024 wherein he has stated that from outside the said Jhuggi No. H-842 is clearly seen to be a single storey structure and having roof made of tin sheet and further, the Appellant/Claimant is seen and getting the survey conducted of the said Jhuggi No. H-842 and further, her room & kitchen are seen and further, she is also seen holding a slate in her hand on which **"H-842 MEENA DEVI G.F"** is seen to have been written.

15. The statement of the Appellant/Claimant as well as the survey records (Annexure-V) prepared by the survey team at the time of survey and the photograph/video clip prepared by the survey team of DDA clearly shows that the family of the Appellant/Claimant is living in the single storey Jhuggi No. H-842 but her claim has been rejected BY EDC on the grounds that she was not having requisite documents but the existence of the Jhuggi of the Appellant/Claimant is not disputed.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 13.09.2022

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded

15.10.2024 15/10/2024 15/10/2024

to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 13.09.2022 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-44/61.G dated 01.07.2023 (Annexure-U) to the present Appellant/Claimant and the EDC Note dated 13.09.2022 (Annexure-W) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 13.09.2022 (Annexure-W)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.03.2022 for organized a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. wherein, to the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground floor and the policy guidelines for alternate allotment in cases of Ground/Upper floor is as under:

2. As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under: - The name of JJ dwellers must appear in at least one of the Voter Lists of the Year's 2012,2013,2014,2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However, name of the applicant appears in voter lists of year 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey, the voter card number JPF 0680082 submitted by the applicant not found valid.

3. The applicant/claimant has failed to submit valid voter ID. card. Hence, the applicant/claimant does not fulfill the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment."

18. The survey records placed on file shows that the single storey Jhuggi No. H-842 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 13.09.2022 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-U) because had her Jhuggi been found on the upper floor

15.10.2024 15/10/2024 15/10/2024

then EDC would have considered as to whether she was having separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for the upper floor. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the single storey Jhuggi No. H-842. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 13.09.2022 (Annexure-W) it has been mentioned that the Voter ID Card No. JPF 0680082 was not found to be a valid document even though her name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in the year of survey but in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that she was not having a separate Ration Card. The bare perusal of the EDC Note dated 13.09.2022 (Annexure-W) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-U) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 13.09.2022 (Annexure-W). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-U) needs to be determined. Here it is pertinent to point that the remarks given in the EDC Note dated 13.09.2022 (Annexure-W) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0680082 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in the year of survey. Accordingly, we shall appraise the material placed on file to determine whether the Voter ID Card No. JPF 0680082 of the Appellant/ Claimant is a valid document or not in the later part of this order.

19. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to

15.10.2024 Rawat 15/10/2024 15/10/2024

01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. H-842 as per the policy guidelines issued by DDA.

20. As per our discussion above, the bare perusal of the EDC Note dated 13.09.2022 (Annexure-W) shows that it is no where disputed by DDA as far as the existence of the single stroey Jhuggi No. H-842 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified inspite of the fact her name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in the year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit comprising of the single storey Jhuggi No. H-842 except that she was allegedly not having all the requisite documents.

21. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photograph/video clip, about the existence of the single storey Jhuggi No. H-842. Thus the statement of the Appellant/Claimant as well as the survey records/ photograph/video clips has duly proved that the single storey Jhuggi No. H-842 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is living in the said single storey Jhuggi No. H-842 and the same has been used by her for residential purposes.

22. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. H-842 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living in the said single storey storey Jhuggi No. H-842 and further the Appellant/Claimant has been using the same for residential

15.10.2024 Rawat 15/10/2024 15/10/2024

purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

23. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said single storey Jhuggi No. H-842 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-W, in support of her claim and prayed that DDA be directed to make allotment in her favour.

25. 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

15.10.2024 15/10/2024 15/10/2024

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."

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

15.10.2024 Mawat 15/10/2024

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

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

30. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card,

15.10.2024 Rawat 15/10/2024 15/10/24

will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

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

15.10.2024 Rawat 15/10/2024 15/10/2024

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

36. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by

15.10.2024 15/10/2024

the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

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

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

15.10.2024 15/10/2024 15/10/2024

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

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

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

41. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High

15.10.2024 15/10/2024 15/10/2024

Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

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

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

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

15.10.2024 Mawat 15/10/2024 15/10/2024

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

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

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

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

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

48. It is pointed out that we have already held that that the single storey Jhuggi No. H-842 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living in the said single storey Jhuggi No. H-842 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

49. It is also pointed out that we have already held that the survey records placed on file shows that the single storey Jhuggi No. H-842 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 13.09.2022 and the grounds for rejection has been

15.10.2024 15/10/2024 15/10/2024

communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-U) because had her Jhuggi been found on the upper floor then EDC would have considered as to whether she was having separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for the upper floor. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the single storey Jhuggi No. H-842. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 13.09.2022 (Annexure-W) it has been mentioned that the Voter ID Card No. JPF 0680082 was not found to be a valid document even though her name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in the year of survey but in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that she was not having a separate Ration Card. The bare perusal of the EDC Note dated 13.09.2022 (Annexure-W) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-U) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 13.09.2022 (Annexure-W). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-U) needs to be determined. Here it is pertinent to point that the remarks given in the EDC Note dated 13.09.2022 (Annexure-W) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0680082 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 but not found in the year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card No. JPF 0680082 on the cutoff date of 01.01.2015 and further

15-10-2024 15/10/2024 15/10/2024

whether her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

50. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said single storey Jhuggi No. H-842 as per the policy guidelines issued by DDA.

51. The Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), the Letter F. No. AERO/AC-17/2024/197 dated 14.06.2024 (Annexure-Q) of AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-R) and Voter List of the year 2013 (Annexure-S) in support of her claim.

52. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-W, in support of her claim. The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 0680082 and it has been issued on 08.06.2002 whereas the second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 3660305 and it has been issued on 17.06.2023. Both the Voter ID Cards (Annexure-A & Annexure-B) have been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Aadhar Card No. 6205 9665 2920 (Annexure-C) of Appellant/Claimant has been issued on the address of the Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Letter F. No. AERO/AC-17/2024/197 dated 14.06.2024 (Annexure-Q) of Additional AERO, AC-17, Wazirpur shows that Voter ID Card No. JPF 0680082 (Annexure-A) is a valid document as it has been verified as per the records of the Election Commission. Further, this Voter ID Card No. JPF 0680082 (Annexure-A) has been reflected in the Voter List of the year 2012 (Annexure-R) and Voter List of the year 2013 (Annexure-S). Moreover, the name of the Appellant/Claimant appears at Sl. No. 642 in the Voter List of the year 2012 (Annexure-R)

15.10.2024 15/10/2024 15/10/2024

and at Sl. No. 642 in the Voter List of the year 2013 (Annexure-S).

53. It is pointed out that the Appellant/Claimant has tendered her two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) is bearing number JPF 0680082 and it has been issued on 08.06.2002, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card (Annexure-B) is bearing number WHC 3660305 and it has been issued on 17.06.2023, much after the cutoff date 01.01.2015. Both the Voter ID Cards (Annexure-A & Annexure-B) have been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Appellant/Claimant has also tendered her Aadhar Card No. 6205 9665 2920 (Annexure-C) and it has been issued on the address of the Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the Letter F. No. AERO/AC-17/2024/197 dated 14.06.2024 (Annexure-Q) of Additional AERO, AC-17, Wazirpur shows that Voter ID Card No. JPF 0680082 (Annexure-A) is a valid document as it has been verified as per the records of the Election Commission and further, this Voter ID Card No. JPF 0680082 (Annexure-A) has been reflected in the Voter List of the years 2012 and 2013. Moreover, the name of the Appellant/Claimant appears at Sl. No. 642 in the Voter List of the year 2012 (Annexure-R) and at Sl. No. 642 in the Voter List of the year 2013 (Annexure-S). This accordingly shows that the Appellant/Claimant was having a valid Voter ID Card No. JPF 0680082 (Annexure-A) on the cutoff date 01.01.2015 and further, her name also appears in the Voter List of the year 2012 (Annexure-R) and Voter List of the year 2013 (Annexure-S) and further, in both the Voter lists (Annexure-R & Annexure-S), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0680082 (Annexure-A). Furthermore, in all the documents (Annexure-A to Annexure-C and Annexure-R & Annexure-S) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-842.

54. As already pointed out above in the EDC Note dated 13.09.2022 (Annexure-W) it has been mentioned that the Voter ID Card No. JPF 0680082 was not found to be a valid document even though her name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in the year of survey. Here it is pertinent to point that the remarks given in the EDC Note dated 13.09.2022 (Annexure-W) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0680082 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of

15.10.2024 15/10/2024 15/10/2024

the year's 2012, 2013, 2014 and 2015 but not found in the year of survey. It is pertinent to point out that the Letter F. No. AERO/AC-17/2024/197 dated 14.06.2024 (Annexure-Q) of Additional AERO, AC-17, Wazirpur shows that Voter ID Card No. JPF 0680082 (Annexure-A) is a valid document as it has been verified as per the records of the Election Commission and further, this Voter ID Card No. JPF 0680082 (Annexure-A) has been reflected in the Voter List of the years 2012 and 2013. Accordingly, the Voter ID Card No. JPF 0680082 of the Appellant/ Claimant having found not to be a valid document as reflected in the Rejection Order dated 01.07.2023 (Annexure-U) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 13.09.2022 (Annexure-W). Accordingly, we have no hesitation in holding that the Voter ID Card No. JPF 0680082 (Annexure-A) of the Appellant/ Claimant is a valid document but this fact was ignored by the EDC.

55. There is no doubt that the Appellant/Claimant is having two Voter ID Cards (Annexure-A & Annexure-B) and she has stated that she had used Voter ID Card No. JPF 0680082 (Annexure-A) to cast vote but in the year 2017-18, she had gone to her native village and accordingly, her name was deleted from the records of the Election Commission and accordingly, she was advised to apply for issuance of fresh Voter ID Card and accordingly she had got the second Voter ID Card No. WHC 3660305 (Annexure-B) issued on 17.06.2023. This explains the reason for having two Voter ID Cards (Annexure-A & Annexure-B) and there is nothing to disbelieve the statement the Appellant/Claimant, who is an old illiterate lady and she had acted under the ill-advice of some persons in getting a new Voter ID Card issued instead of getting the duplicate issued as per the rules.

56. It is also pointed out that both the Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), Voter List of the year 2012 (Annexure-R) and Voter List of the year 2013 (Annexure-S) have been issued on the address of the Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. It is disputed that both the Voter ID Cards (Annexure-A & Annexure-B) have been issued on the address of the Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. The fact of issuance of both the Voter ID Cards (Annexure-A & Annexure-B) on the address of the Jhuggi No. H-842 corroborates that the Appellant/Claimant has been continuously living in Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar from 08.06.2002 (the date of issuance of the first Voter ID Card No. JPF 0680082 - Annexure-A) to 17.06.2023 (the date of issuance of the

15.10.2024 Rawat 15/10/2024 15/10/2024

second Voter ID Card No. WHC 3660305 (Annexure-B) and even till today.

57. Furthermore, the Letter F. No. AERO/AC-17/2024/197 dated 14.06.2024 (Annexure-Q) of Additional AERO, AC-17, Wazirpur shows that Voter ID Card No. JPF 0680082 (Annexure-A) is a valid document as it has been verified as per the records of the Election Commission. Further, this Voter ID Card No. JPF 0680082 (Annexure-A) has been reflected in the Voter List of the year 2012 (Annexure-R) and Voter List of the year 2013 (Annexure-S). Moreover, the name of the Appellant/Claimant appears at Sl. No. 642 in the Voter List of the year 2012 (Annexure-R) and at Sl. No. 642 in the Voter List of the year 2013 (Annexure-S). This accordingly shows that the Appellant/Claimant was having a valid Voter ID Card No. JPF 0680082 (Annexure-A) on the cutoff date 01.01.2015 and further, her name also appears in the Voter List of the year 2012 (Annexure-R) and Voter List of the year 2013 (Annexure-S) and further, in both the Voter lists (Annexure-R to Annexure-S), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0680082 (Annexure-A) and furthermore, in all the above mentioned documents (Annexure-A to Annexure-C, Annexure-R and Annexure-S) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA.

58. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of single storey Jhuggi No. H-842 regarding which she has been claiming allotment from DDA and further her name also appears in any of the voter list of the year's 2012 and 2013.

59. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because her name does not appear in the voter list of the years 2014, 2015 & year of survey, i.e., 2020 (because as per the survey records placed on file survey/videography was conducted on 18.03.2020) even though she was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears in the voter list of the year's 2012 and 2013.

60. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

15.10.2024

15/10/2024

(iv) in any year if such revision has been directed by the Election Commission.

61. Therefore, the reasons for not tendering the Voter List of the years, 2014, 2015 & 2020 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the years, 2014, 2015 & 2020 (year of survey) when it was not prepared/ available with the Election Commission.

62. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains the first Voter ID Card on 08.06.2002 (Annexure-A) before the cutoff date of 01.01.2015 and the second Voter ID Card on 17.06.2023 (Annexure-B) after the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears in the voter list of the year's 2012 and 2013 but their name happened to be not appearing in the Voter List of the years, 2014, 2015 & 2020 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter List of the years, 2014, 2015 & 2020 (year of survey) even though they possess all the relevant documents, including a valid Voter Id Card on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2012 and 2013 and further all these documents in unequivocal terms shows that they have been continuously living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the years, 2014, 2015 & 2020 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the Voter List of the years, 2014, 2015 & 2020 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No. JPF-0680082 dated

15.10.2024 15/10/2024 15/10/2024

08.06.2002 (Annexure-A), which has been issued on the address of Jhuggi No. H-842 and also the Voter ID Card No. WHC 3660305 dated 17.06.2023 (Annexure-B), which has also been issued on the address of Jhuggi No. H-842. The Appellant/Claimant is also having the Aadhar Card (Annexure-C) bearing No. 6205 9665 2920 on the address of the Jhuggi No. H-842, Jailorwala Bagh, regarding which she is claiming allotment from DDA.

63. Furthermore, the Letter F. No. AERO/AC-17/2024/197 dated 14.06.2024 (Annexure-Q) of Additional AERO, AC-17, Wazirpur also shows that Voter ID Card No. JPF 0680082 (Annexure-A) of the Appellant/Claimant is a valid document as it has been verified as per the records of the Election Commission and further, this Voter ID Card No. JPF 0680082 (Annexure-A) has been reflected in the Voter List of the year 2012 and 2013. Moreover, the name of the Appellant/Claimant appears at Sl. No. 642 in the Voter List of the year 2012 (Annexure-R) and at Sl. No. 642 in the Voter List of the year 2013 (Annexure-S). This accordingly shows that the Appellant/Claimant was having a valid Voter ID Card No. JPF 0680082 (Annexure-A) on the cutoff date 01.01.2015 and her name also appears in the Voter List of the year 2012 (Annexure-R) and Voter List of the year 2013 (Annexure-S) and further, in both the Voter lists (Annexure-R to Annexure-S), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0680082 (Annexure-A) and furthermore, in all the above mentioned documents (Annexure-A to Annexure-C, Annexure-R and Annexure-S) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. This shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar from 08.06.2002 (the date of issuance of the first Voter ID Card No. JPF 0680082 - Annexure-A) to 17.06.2023 (the date of issuance of the second second Voter ID Card No. WHC 3660305 - Annexure-B) and even till today. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-842 regarding which she has been claiming allotment from DDA and further her name also appears in the voter list of the year's 2012 and 2013.

64. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the

15.10.2024 15/10/2024 15/10/2024

cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

65. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
>
> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was*

15-10-2024 15/10/2024 15/10/2024

not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

66. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

67. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having a valid Voter ID Card on the cutoff date of 01.01.2015 & also a Aadhar Card and further she possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then her claim can not be rejected by taking hyper technical view especially when she was having a valid Voter ID Card No. JPF 0680082 (Annexure-A) dated 08.06.2002 on the cutoff date of 01.01.2015 & also a valid Voter ID Card WHC 3660305 dated 17.06.2023 (Annexure-B) and Aadhar Card No. 6205 9665 3920

15.10.2024 Rawat 17/10/2024 15/10/2024

(Annexure-C) and further her name also appears continuously in the Voter Lists from the years 2012 and 2013 (Annexure-R & Annexure-S) and all the documents have been issued on the address of Jhuggi No. H-842 regarding which she is claiming allotment from DDA and further she as well her family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

68. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in any of the voter list of the year's 2012 & 2013 and further the reasons for her name having not reflected in the Voter List of years 2014, 2015 & of the year survey (2020) has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly the second ground of the Voter ID Card of the Appellant/ Claimant having not found to have verified as reflected in the EDC Note dated 13.09.2022 (Annexure-W) and also in the Rejection Order dated 01.07.2023 (Annexure-U) is not sustainable being erroneous, wrong and against the facts found by this Appellate Authority.

69. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. H-842 since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lend support to the claim put forward by the Appellant/Claimant.

70. The Appellant/Claimant has also tendered two Voter ID Cards (Annexure-D & Annexure-E) & Aadhar Card (Annexure-F) of her husband Shiv Mangal, Voter List of the year 2012 (Annexure-R) and Voter List of the year 2013 (Annexure-S) and the Letter F. No. AERO/AC-17/2023/19 dated 11.05.2023 (Annexure-T) of AERO, AC-17, Wazirpur in support of her claim.

71. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that Shiv Mangal, who is the husband of the Appellant /Claimant, is having two Voter ID Cards (Annexure-D & Annexure-E). The first Voter ID Card (Annexure-D) is bearing number JPF 0681015 and it has been issued on 08.06.2002 whereas the second Voter ID Card (Annexure-E) is bearing number WHC 3664778 and it has been issued on 06.09.2023. Both the Voter ID Cards (Annexure-D & Annexure-E) have been issued on the address of the Jhuggi No. H-842

15.10.2024 Jllawat 15/10/2024 15/10/24

regarding which the Appellant/Claimant has been claiming allotment from DDA. Further, Aadhar Card No. 4889 0667 6571 (Annexure-F) of her husband Shiv Mangal has been issued on 23.09.2011 and it has also been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. Moreover, the Letter F. No. AERO/AC-17/2023/19 dated 11.05.2023 (Annexure-T) of AERO, AC-17, Wazirpur also verifies that the Voter ID Card No. JPF 0681015 (Annexure-D) of her husband Shiv Mangal to be a valid document as per the records of the Election Commission and furthermore, the name of Shiv Manal also appears at Sl. No. 641 in the Voter List of the year 2012 (Annexure-R) and at Sl. No. 641 in the Voter List of the year 2013 (Annexure-S). It is also pointed out that in all the documents (Annexure-D to Annexure-F, Annexure-R & Annexure-S) the address of her husband Shiv Mangal is mentioned to be Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA.

72. It is pointed out that her husband Shiv Mangal is having two Voter ID Cards (Annexure-D & Annexure-E). The first Voter ID Card (Annexure-D) is bearing number JPF 0681015 and it has been issued on 08.06.2002, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card (Annexure-E) is bearing number WHC 3664778 and it has been issued on 06.09.2023. Both the Voter ID Cards (Annexure-D & Annexure-E) have been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. Moreover, the issuance of two Voter ID Cards shows that the Appellant/Claimant & her husband Shiv Mangal have been continuously living in Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar from 08.06.2002 (the date of issuance of the first Voter ID Card No. JPF 06810151 - Annexure-D) to 06.09.2023 (the date of issuance of the second second Voter ID Card No. WHC 3664778 - Annexure-E). Further, Aadhar Card No. 4889 0667 6571 (Annexure-F) of her husband Shiv Mangal has been issued on 23.09.2011, much prior to the cutoff date 01.01.2015 and it has also been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. Moreover, the Letter F. No. AERO/AC-17/2023/19 dated 11.05.2023 (Annexure-T) of AERO, AC-17, Wazirpur also verifies Voter ID Card No. JPF 0681015 (Annexure-D) of her husband Shiv Mangal to be a valid document as per the records of the Election Commission and furthermore, the name of Shiv Manal also appears at Sl. No. 641 Voter List of the year 2012 (Annexure-R) and at Sl. No. 641 in the Voter List of the year 2013 (Annexure-S). It is also pointed out that in all the documents (Annexure-D to Annexure-F, Annexure-R & Annexure-

15.10.2024 15/10/2024 15/10/2024

5) the address of her husband Shiv Mangal is mentioned to be Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA.

73. Further, in addition to above referred documents, the Appellant/Claimant has also tendered Aadhar Cards (Annexure-G & Annexure-H) of her children, Anup & Anushka, Ration Card (Annexure-I), the Passbook of Bank of India (Annexure-J), the Passbook of Indian Overseas Bank (Annexure-K), the Passbook of Bank of Baroda (Annexure-L), Acknowledgement receipt (Annexure-M), Gas Connection (Annexure-N), Electricity Bill (Annexure-M) and ID Card (Annexure-P) of her son Anup in support of her claim.

74. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has also tendered Aadhar Cards (Annexure-G & Annexure-H) of her children, Anup & Anushka. The Aadhar Card (Annexure-G) of Anup is bearing number 9325 5078 1533 and it has been issued on 12.04.2014 on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. Aadhar Card (Annexure-H) of her daughter, Anushka is bearing number 5221 7562 8096 and it has been issued on 28.10.2020. Ration Card No. 077004040994 (Annexure-I) has been issued in favour of the Appellant/Claimant and the name of her husband and children are also mentioned and further, it has been issued on 16.06.2014 and further, it has been issued on the address of the Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of Bank of India (Annexure-J) shows that the Appellant/Claimant had opened the account on 27.11.2012. The Passbook of Indian Overseas Bank (Annexure-K) shows that her husband Shiv Mangal had opened the account on 02.01.2013. The Passbook of Bank of Baroda (Annexure-L) shows that her son, Anup had opened the account on 01.12.2014. All the Bank Passbooks (Annexure-J to Annexure-L) have also been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Acknowledgement Receipt (Annexure-M) has been issued by CWWB in favour of her husband Shiv Mangal on 27.09.2023 and in that also the address is mentioned to be Jhuggi No. H-842. The Gas Connection (Annexure-N) shows that her husband Shiv Mangal has taken gas connection on 23.11.2023 whereas the Electricity Bill (Annexure-O) shows that the Appellant/Claimant had taken electricity connection on 05.03.2009 and further, in both the documents (Annexure-N & Annexure-O), the address is mentioned to be Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. The ID Card (Annexure-P) of

15.10.2024 Rawat 15/10/2024 15/10/2024

Airtel has been issued in favour of her son, Anup and in that also the address is mentioned to be Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA.

75. It is pointed out that the Appellant/Claimant has also tendered Aadhar Cards (Annexure-G & Annexure-H) of her children, Anup & Anushka. The Aadhar Card (Annexure-G) of Anup is bearing number 9325 5078 1533 and it has been issued on 12.04.2014, much prior to the cutoff date 01.01.2015 and further it has been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. Aadhar Card (Annexure-H) of her daughter, Anushka, is bearing number 5221 7562 8096 and it has been issued on 28.10.2020. The Ration Card No. 077004040994 (Annexure-I) has been issued in favour of the Appellant/Claimant and the name of her husband and children are also mentioned and further, it has been issued on 16.06.2014, much prior to the cutoff date 01.01.2015 and further, it has been issued on the address of the Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of Bank of India (Annexure-J) shows that the Appellant/Claimant had opened the account on 27.11.2012, much prior to the cutoff date 01.01.2015. The Passbook of Indian Overseas Bank (Annexure-K) shows that her husband Shiv Mangal had opened the account on 02.01.2013, much prior to the cutoff date 01.01.2015. The Passbook of Bank of Baroda (Annexure-L) shows that her son, Anup had opened the account on 01.12.2014, much prior to the cutoff date 01.01.2015. All the Bank Passbooks (Annexure-J to Annexure-L) have also been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Acknowledgement Receipt (Annexure-M) has been issued by CWWB in favour of her husband Shiv Manal on 27.09.2023 and in that also the address is mentioned to be Jhuggi No. H-842. The Gas Connection (Annexure-N) shows that her husband Shiv Mangal has taken gas connection on 23.11.2023 whereas the Electricity Bill (Annexure-O) shows that the Appellant/Claimant had taken electricity connection on 05.03.2009, much prior to the cutoff date 01.01.2015 and further, in both the documents (Annexure-N & Annexure-O), the address is mentioned to be Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. The ID Card (Annexure-P) of Airtel has been issued in favour of her son, Anup and in that also the address is mentioned to be Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA.

15.10.2024 Rawat 15/10/2024

76. The Appellant/Claimant has tendered her documents and also of her family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Electricity Bill, Gas Connection, Bank Passbooks, ID Card and Ration Cards etc. and all these documents have been issued from 2002 to 2023 and it accordingly amply establishes that she as well as her family members have been living jointly in the single storey Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

77. In view of the matter as per our discussion above, the material placed on file supports the claim of the Appellant/ Claimant and shows that the Appellant/ Claimant fulfils the eligibility criteria as per the policy guidelines issued by DDA as under: -

(a) The material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/ Claimant was and still living separately & independently in the single storey Jhuggi No. H-842, which constitute single dwelling unit and further as per our discussion above, the documents, Annexure-A to Annexure-W, shows that the Appellant/Claimant was having a valid Voter ID Card No. JPF 0680082 dated 08.06.2002 (Annexure-A), which is issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. H-842 regarding which she is claiming allotment from DDA. Further, the Appellant/Claimant was having second valid Voter ID Card No. WHC 3660305 dated 17.06.2023 (Annexure-B), which has been issued on the address of Jhuggi NoH-842 regarding which she is claiming allotment from DDA. The reasons for having two Voter ID Cards (Annexure-A & Annexure-B) has been well explained in this case. Furthermore, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar from 08.06.2002 (the date of issuance of the first Voter ID Card No. JPF 0680082 - Annexure-A) to 17.06.2023 (the date of issuance of the second second Voter ID Card No. WHC 3660305 - Annexure-B). The Appellant/Claimant is also having the Aadhar Card No. 6205 9665 2920 (Annexure-C), which has also been issued on the address of the Jhuggi No. H-842, Jailorwala Bagh, regarding which she is claiming allotment from DDA.

(b) Furthermore, the Letter F. No. AERO/AC-17/2024/197 dated 14.06.2024 (Annexure-Q) of Additional AERO, AC-17, Wazirpur shows that Voter ID Card No. JPF 0680082 (Annexure-A) is a valid document as it has been verified as per the records of the Election

15.10.2024 15/10/2024 15/10/2024

Commission and further this Voter ID Card No. JPF 0680082 (Annexure-A) has been reflected in the Voter List of the year 2012 and 2013. Moreover, the name of the Appellant/Claimant appears at Sl. No. 642 in the Voter List of the year 2012 (Annexure-R) and at Sl. No. 642 in the Voter List of the year 2013 (Annexure-S). This accordingly shows that the Appellant/Claimant was having a valid Voter ID Card No. JPF 0680082 (Annexure-A) on the cutoff date 01.01.2015 and further, her name also appears in the Voter List of the year 2012 (Annexure-R) and Voter List of the year 2013 (Annexure-S) and further, in both the Voter lists (Annexure-R to Annexure-S), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0680082 (Annexure-A). Furthermore, in all the above mentioned documents (Annexure-A to Annexure-C, Annexure-R and Annexure-S) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA.

(c) The material placed on file also shows that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears in any of the voter list of the year's 2012 & 2013 and further the reasons for her name having not reflected in the Voter List of the years 2014, 2015 & year of survey (2020) has been well explained in this case but all these relevant & material facts were not duly considered by EDC.

(d) The material placed on file also shows that the Appellant/Claimant has also tendered two Voter ID Cards (Annexure-D & Annexure-E) & Aadhar Card (Annexure-F) of her husband Shiv Mangal. It is pointed out that the first Voter ID Card (Annexure-D) of her husband Shiv Mangal is bearing number JPF 0681015 and it has been issued on 08.06.2002, much prior to the cutoff date 01.01.2015 whereas his second Voter ID Card (Annexure-E) is bearing number WHC 3664778 and it has been issued on 06.09.2023. Both the Voter ID Cards (Annexure-D & Annexure-E) have been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. Moreover, the issuance of two Voter ID Cards shows that the Appellant/Claimant & her husband Shiv Mangal have been continuously living in Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar from 08.06.2002 (the date of issuance of the first Voter ID Card No. JPF 06810151 - Annexure-D) to 06.09.2023 (the date of issuance of the second second Voter ID Card No. WHC 3664778 - Annexure-E). Further, Aadhar

15.10.2024 15/10/2024 15/10/2024

Card No. 4889 0667 6571 (Annexure-F) of her husband Shiv Mangal has been issued on 23.09.2011, much prior to the cutoff date 01.01.2015 and it has also been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. Moreover, the Letter F. No. AERO/AC-17/2023/19 dated 11.05.2023 (Annexure-T) of AERO, ACO-17, Wazirpur also verifies Voter ID Card No. JPF 0681015 (Annexure-D) of her husband Shiv Mangal to be a valid document as per the records of the Election Commission and furthermore, the name of Shiv Manal also appears at Sl. No. 641 Voter List of the year 2012 (Annexure-R) and at Sl. No. 641 in the Voter List of the year 2013 (Annexure-S). It is also pointed out that in all the documents (Annexure-D to Annexure-F, Annexure-R & Annexure-S) the address of her husband Shiv Mangal is mentioned to be Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA.

(e) The material placed on file also shows that the Appellant/Claimant has also tendered the Aadhar Cards (Annexure-G & Annexure-H) of her children, Anup & Anushka, the Ration Card (Annexure-I), the Passbook of Bank of India (Annexure-J), the Passbook of Indian Overseas Bank (Annexure-K), the Passbook of Bank of Baroda (Annexure-L), Acknowledgement receipt (Annexure-M), Gas Connection (Annexure-N), Electricity Bill (Annexure-M) and ID Card (Annexure-P) of her son Anup in support of her claim. The Aadhar Card (Annexure-G) of Anup is bearing number 9325 5078 1533 and it has been issued on 12.04.2014, much prior to the cutoff date 01.01.2015 and further it has been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. Aadhar Card (Annexure-H) of her daughter, Anushka is bearing number 5221 7562 8096 and it has been issued on 28.10.2020. The Ration Card No. 077004040994 (Annexure-I) has been issued in favour of the Appellant/Claimant and the name of her husband and children are also mentioned and further, it has been issued on 16.06.2014, much prior to the cutoff date 01.01.2015 and further, it has been issued on the address of the Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. The Passbook of Bank of India (Annexure-J) shows that the Appellant/Claimant had opened the account on 27.11.2012, much prior to the cutoff date 01.01.2015. The Passbook of Indian Overseas Bank (Annexure-K) shows that her husband Shiv Mangal had opened the account on 02.01.2013, much prior to the cutoff date 01.01.2015. The Passbook of Bank of Baroda (Annexure-L) shows that her son, Anup had opened the account on 01.12.2014, much

15.10.2024 S/Rawat 15/10/2024 15/10/2024

prior to the cutoff date 01.01.2015. All the Bank Passbooks (Annexure-J to Annexure-L) have also been issued on the address of the Jhuggi No. H-842 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Acknowledgement Receipt (Annexure-M) has been issued by CWWB in favour of her husband Shiv Manal on 27.09.2023 and in that also the address is mentioned to be Jhuggi No. H-842. The Gas Connection (Annexure-N) shows that her husband Shiv Mangal has taken gas connection on 23.11.2023 whereas the Electricity Bill (Annexure-O) shows that the Appellant/Claimant had taken electricity connection on 05.03.2009, much prior to the cutoff date 01.01.2015 and further, in both the documents (Annexure-N & Annexure-O), the address is mentioned to be Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. The ID Card (Annexure-P) of Airtel has been issued in favour of her son, Anup and in that also the address is mentioned to be Jhuggi No. H-842, regarding which the Appellant/Claimant has been claiming allotment from DDA. The abovementioned documents also corroborate that the entire family was living jointly in Jhuggi No. H-842.

(f) The material placed on file further shows that the Appellant/Claimant as well as her husband Shiv Mangal and Children, Anushka & Anup, are having their respective Voter ID Cards, Aadhar Cards, ID Card and further they are also maintaining Bank accounts and also having joint Ration Cards on the address of Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar and it corroborates that the Appellant/Claimant along with her husband Shiv Mangal and Children have been living jointly in the single storey Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar.

(g) The material placed on file shows that the Ration Card (Annexure-I), Bank Pass Books (Annexure-J to Annexure-L), the Gas Connection (Annexure-N), Electricity Bill (Annexure-O) and ID Card (Annexure-P) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. H-842 since long and much prior to the Cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. policy guidelines issued by DDA.

78. In view of our findings above, we have no hesitation in holding that the survey records placed on file shows that the single storey Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 but her claim was

15.10.2024 Mawat 15/10/2024 15/10/2024

rejected by EDC on 08.01.2023 (Annexure-W) and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-U) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor"**. The material placed on file shows that the Appellant/Claimant has not claimed allotment from DDA against the first floor but she has claimed allotment against the single storey Jhuggi No. H-842, which is a single dwelling unit and moreover the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears in any of the voter list of the year's 2012 & 2013 and further the reasons for her name having not reflected in the Voter List of years 2014, 2015 & of the year of survey (2020) has been well explained in this case and further the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and in addition to that the Appellant/Claimant has tendered her documents and also of her family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, ID Card, Ration Card and Bank Passbooks etc. and all these documents have been issued from 2002 to 2023 and it accordingly amply establishes that she as well as her family members have been living jointly in the single storey Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds of rejection **"Voter Card Not verified" & "Upper Floor"** are not sustainable in the eyes of law being erroneous, wrong and against the facts. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

79. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 74 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-44/61.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant, Meena Devi W/o Shiv Mangal, in respect of the single storey Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar.

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

15.10.2024 Rawat 15/10/2024 15/10/2024

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

15.10.2024 15/10/2024 15/10/2024

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

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

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

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

Appeal No: 135 of 2024

Date of Institution: 14.07.2023

Date of Order: 15.10.2024

Present: Appellant/ Claimant Laxmi W/o Dinesh Chand

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

ORDER

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

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. A-119 Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. A-119 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/67.G dated

15.10.2024 15/10/2024 15/10/2024

01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 135 of 2024 has been filed by the present Appellant/ Claimant.

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

4. The statement of the Appellant/Claimant has been recorded before us on 08.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

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

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

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. A-119 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Laxmi has been recorded before us on 08.10.2024 wherein she has stated that she is married with Dinesh and having three children; Asish, Anu & Khushi. Dinesh had expired in the year 2017. All the children are unmarried.

15.10.2024 15/10/2024 15/10/2024

9. The Appellant/Claimant has stated that she is having a single storey Jhuggi No. A-119, Jailorwala Bagh, Ashok Vihar and it comprised of one room and the roof is made with Tirpal.

10. The Appellant/Claimant has stated that she along with her husband Dinesh (until his death in the year 2017) and all the three children; Asish, Anu & Khushi is living in the said single storey Jhuggi No. A-119 and regarding that she has sought allotment from DDA. But her claim was rejected by Eligibility Determination Committee on the grounds that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly claimed allotment against the single storey Jhuggi No. A-119 and further she is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 135 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. A-119. As per survey records the survey was got conducted on 22.11.2020 by the Appellant/Claimant of Jhuggi No. A-119 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography Asish, who is the son of the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. A-119. The video was played before the Appellant/Claimant when her statement was recorded before us on 08.10.2024 wherein she has stated that the video clip pertains to the Jhuggi No. A-119 in which Jhuggi No. A-119 is clearly seen to be a single storey structure and having roof made with Tirpal and further, her son Asish is seen and getting the survey conducted and their room & kitchen is also seen and further, Asish is also seen holding a slate in his hand on which **"A-119 LAXMI G.F"** is clearly seen to have been written.

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

15.10.2024 15/10/2024 15/10/2024

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

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

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. A-119 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-H, in support of her claim and prayed that DDA be directed to make allotment in her favour.

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

15.10.2024 15/10/2024 15/10/2024

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

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

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

15.10.2024 15/10/2024

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

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

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

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

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

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

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

15.10.2024 15/10/2024 15/10/2024

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

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

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

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

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

15.10.2024 15/10/24 15/10/24

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

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

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

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

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

15.10.2024 15/10/2024 15/10/2024

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

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

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

15.10.2024 15/10/2024 15/10/2024

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

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

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

15.10.2024 15/10/2024 15/10/2024

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

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

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

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

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

15.10.2024 15/10/2024 15/10/2024

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

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

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

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

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

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

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

40. It is pointed out that we have already held that the single storey Jhuggi No. A-119 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential

15.10.2024 15/10/2024 15/10/2024

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

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. A-119 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3835505 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

43. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 3835505 (Annexure-A) and it has been issued on 27.06.2022, much after the cutoff date of 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the years from 2012 to 2015 does not arise. Furthermore, the Appellant/Claimant has tendered her Aadhar Card (Annexure-B) bearing No. 2167 5722 5962 and it has been issued on 18.01.2019, much after the cutoff date of 01.01.2015.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.A-119 Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has also tendered the Aadhar Card (Annexure-D) of her husband Dinesh, Aadhar Card (Annexure-E) of her daughter Khushi, Aadhar Card (Annexure-F) of her son Asish as well as the Passbook of Bank of Baroda (Annexure-G) and Electricity Bill (Annexure-H) in support of her claim.

15.10.2024 Rawat 15/10/2024 15/10/2024

46. It is pointed out that the Aadhar Card No. 5077 8859 9769 (Annexure-D) of her husband Dinesh is not having the date of issuance of this document. Further, the Aadhar Card No. 7968 1116 7299 (Annexure-E) of her daughter Khushi has been issued on 29.09.2022, much after the cutoff date of 01.01.2015. Moreover, the Aadhar Card (Annexure-F) of her son Asish is not having any date of issuance of this document. Further, the Passbook of Bank of Baroda (Annexure-G) shows that the Appellant/Claimant has opened the account on 14.03.2022, much after the cutoff date of 01.01.2015. Furthermore, the Electricity Bill (Annexure-H) shows that the electricity connection has been taken by her husband Dinesh (since deceased) on 18.02.2017, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. A-119 regarding which the Appellant/Claimant is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

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

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.A-119 Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also

15.10.2024 Mawat 17/10/2024 15/10/2024

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

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/67.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

15.10.2024 | 15/10/2024 | 15/10/2024

(Ranbir Singh) | **(Satish Ahlawat)** | **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI | **Addl. District & Sessions Judge (Retd.)**

MEMBER | **CHAIRMAN** | **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 100 of 2024

Date of Institution: 13.07.2024

Date of Order: 16.10.2024

Present: Appellant/ Claimant Aarti Devi W/o Dharmender Singh

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. B-256, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-256 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No.

16.10.2024 16/10/2024 16/10/2024

350-108/4.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 100 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. B-256 was found to exist but it was found to be a case of double allotment against the same Jhuggi and further she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. B-256 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Aarti Devi has been recorded before us on 11.10.2024 wherein she has stated that she is married with Dharmender and having three

16.10.2024 16/10/2024 16/10/2024

children; Deepak, Puja & Rumbhi. Deepak & Rumbhu are unmarried. Whereas Puja is married with Munish and she is living in her matrimonial home in Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that she along with her family was living on rent in the Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar but later on they have shifted to the Jhuggi No. B-256, Jailorwala Bagh. However, it is pointed out that the Appellant/Claimant has not disclosed the date, month & year of having shifted to the Jhuggi No. B-256, Jailorwala Bagh, regarding which she is claiming allotment from DDA. This shows that the Appellant/Claimant is trying to conceal material fact in order to grab alternative allotment from DDA by hook or crook.

10. The Appellant/Claimant has stated that she is having a single storey Jhuggi No. B-256 and it comprise of one room and the Appellant/Claimant along with her husband Dharmender and both the unmarried children Deepak & Rumbhu is living in the said single storey Jhuggi No. B-256. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. B-256 but her claim was rejected by Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly claimed allotment against the single storey Jhuggi No. B-256 and further she is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 100 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with photographs pertaining to the Jhuggi No. B-256 and as per survey records the survey was got conducted on 17.03.2020 by the Appellant/Claimant of the said Jhuggi and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein and further the photograph of the Appellant/Claimant was also taken by the survey team. However, at the time of conducting of videography the Appellant/Claimant, was not present. The Appellant/Claimant has categorically stated that she was not present in Jailorwala Bagh, Ashok Vihar at the time of survey/videography of the Jhuggi No. B-256 by the survey team of DDA. There is nothing to disbelieve the

16.10.2024 16/10/2024 16/10/2024

Appellant/Claimant especially when the survey records placed on file by DDA shows that the survey was got conducted on 17.03.2020 by the Appellant/Claimant of the said Jhuggi No. B-256 and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein and further the photograph of the Appellant/Claimant was also taken by the survey team. Hence, not preparing of video due to absence of the Appellant/Claimant does not go to the root of the case and cannot be the ground to reject his claim solely on this ground especially when the Appellant/Claimant had got the survey conducted on 17.03.2020 of his Jhuggi No. B-256 and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned in the survey records and further the photograph of the Appellant/Claimant was also taken by the survey team in token thereof.

12. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the single storey Jhuggi No. B-256. Thus the statement of the Appellant/Claimant has duly proved that the single storey Jhuggi No. B-256 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is living in the single storey Jhuggi No. B-256 and is using the same for residential purposes.

13. Accordingly, we have no hesitation in holding that the Jhuggi No. B-256 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and further the Appellant/Claimant along with her family was & is still living the said single storey Jhuggi No. B-256 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. B-256 as per the policy guidelines issued by DDA.

16.10.2024 Mawat 16/10/2024 Rizwan 16/10/2024

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-D, 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**
> **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.

16.10.2024 16/10/2024 16/10/2024

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

17. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

18. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out

16.10.2024 16/10/2024 16/10/2024

of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

20. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper

16.10.2024 16/10/2024 16/10/2024

floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

24. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli

16.10.2024 Rawat 16/10/2024 Tiwari 16/10/2024

Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

25. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

27. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

16.10.2024 16/10/2024 16/10/2024

28. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

29. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that

16.10.2024 16/10/2024 16/10/2024

the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

32. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

33. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore,

16.10.2024 16/10/2024 16/10/2024

the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

35. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

36. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of

16.10.2024 16/10/2024 16/10/2024

the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

38. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

39. It is pointed out that we have already held that that the single storey Jhuggi No. B-256 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and further the Appellant/Claimant along with her family was & is still living the said single storey Jhuggi No. B-256 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said single storey Jhuggi No. B-256 as per the policy guidelines issued by DDA.

41. The Appellant/ Claimant as tendered her Aadhar Card (Annexure-A) and PAN Card

16.10.2024 16/10/2024

(Annexure-B) in support of her claim.

42. The Appellant/Claimant has specifically admitted that she is not having any Voter Id Card issued on the address of the Jhuggi No. B-256, regarding which she is claiming allotment from DDA and accordingly, the question of her name appearing in any of the Voter List of the years 2012 to 2015 does not arise. It is pointed out that the Appellant/Claimant has tendered her Aadhar Card (Annexure-A) bearing No. 7310 6775 5538 but the date of issuance is not mentioned and furthermore, this document has been issued on the address of the Jhuggi No. A-82, Jailorwala Bagh and not on the address of the Jhuggi No. B-256, regarding which she is claiming allotment from DDA and accordingly this document is not relevant to determine the eligibility of the Appellant/Claimant. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. B-256 regarding which she has been claiming allotment from DDA and further her name also does not appear in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

43. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-C) and Passbook of PNB (Annexure-D) in support of her claim.

44. It is pointed out that the Electricity Bill (Annexure-C) shows that the Appellant/Claimant had taken the electricity connection on 18.09.2015 on the address of the Jhuggi No. A-82, Jailorwala Bagh, and not on the address of the Jhuggi No. B-256, regarding which she is claiming allotment from DDA and accordingly, this document is not relevant. The Passbook of PNB (Annexure-D) shows that the Appellant/Claimant has opened the account on 09.09.2014 on the address of the Jhuggi No. B-256, Jailorwala Bagh. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a separate Ration Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. B-256 regarding which she has been claiming allotment from DDA and further no Voter List has been placed on file to show that 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, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by

16.10.2024 16/10/2024 16/10/2024

DDA.

45. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

46. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. B-256, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-D, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

47. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress

16.10.2024 16/10/2024 16/10/2024

material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-108/4.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

48. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

16.10.2024 16/10/2024 16/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 04 of 2024

Date of Institution: 01.05.2023

Date of Order: 16.10.2024

Present: Appellant/ Claimant Shakuntla Devi W/o Vishnu Dev

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. F-86, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-86 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-108/68.1 dated 01.07.2023

16.10.2024 16/10/2024 16/10/2024

to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 04 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 29.05.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z7, in support of her claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA have been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 07.10.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Appellant / Claimant's triple storey Jhuggi bearing No. F-86 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z-5) whereby the reasons for rejection is mentioned to be **"Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including a valid Voter ID Card & a Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA

16.10.2024 16/10/2024 16/10/2024

policy, 2015 and whether she is entitled to claim allotment against the triple storey Jhuggi No. F-86 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Shakuntala Devi has been recorded before us on 29.05.2024 wherein she has stated that she is married with Vishnu Dev and having six children; Arvind, Shivam, Neetu, Ritu, Anshu & Indu. Out of whom, Arvind & Neetu are married whereas all the remaining four children are unmarried. Neetu is married with Santosh and she is living with her parents in Jailorwala Bagh, Ashok Vihar. Arvind is married with Shivani and having one daughter; Shrishti.

9. The Appellant/Claimant has stated that she is having a triple storey Jhuggi No. F-86, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has sought allotment from DDA against the said triple storey Jhuggi No. F-86 but her claim has been rejected by Eligibility Determination Committee on the ground that she has claimed allotment against the upper floor in spite of the fact that she has admittedly claimedsought allotment from DDA against the said triple storey Jhuggi No. F-86 and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 04 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z and Annexure-Z-1 to Annexure-Z-7, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 07.10.2024 wherein he has stated that the Appellant/Claimant Shakuntla Devi has sought alternative allotment form DDA against the triple storey Jhuggi No. F-86, Jailorwala Bagh but her claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Appellant/ Claimant has claimed allotment against the upper floor. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z5) whereby the reasons for rejection is mentioned to be **"Upper Floor"**. Aggrieved by the same, the Appeal No. 04 of 2024 has been filed by the present Appellant/ Claimant. Therefore, it is prayed that this Appellate Authority should take holistic view and legality of all the grounds be thoroughly considered to independently determine the eligibility of the Appellant/ Claimant as per the policy guidelines issued by DDA.

16.10.2024 Rawat 16/10/2024 16/10/2024

12. DDA has furnished survey records along with one video clip of Jhuggi No. F-86. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-86 on 19.03.2020 on the ground floor of the said Jhuggi and her photograph (Annexure- Z6) taken in front of her Jhuggi is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished the survey records along with one video clip. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 29.05.2024 wherein she has stated that the video clip pertains to the Jhuggi No. F-86 in which from outside the Jhuggi is clearly seen to be a pucca triple storey structure and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which **"F-86 SHAKUNTLA DEVI G+1"** is seen to have been written.

14. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi F-86, which were prepared by the survey team of DDA and also played before him when his statement was recorded before us on 07.10.2024 wherein he has stated that from outside the Jhuggi is clearly seen to be a pucca triple storey structure and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen are also seen and further, she is also seen holding a slate in her hand on which **"F-86 SHAKUNTLA DEVI G+1"** is seen to have been written.

15. The statement of the Appellant/Claimant as well as his photograph (Annexure-Z6) taken by the survey team at the time of survey and also the video clip prepared by the survey team of DDA clearly shows that the Appellant/Claimant is having triple storey Jhuggi No. F- 86 being one dwelling unit. Furthermore, the claim of the Appellant/Claimant has been rejected by the EDC on the sole ground **"Upper Floor"** and aggrieved by the same she has filed the present Appeal No. 04 of 2024 before the Appellate Authority for redressal but the existence of the Jhuggi of the Appellant/Claimant is not disputed by DDA.

16.10.2024 16/10/2024 16/10/2024

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 14.12.2022

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 14.12.2022 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-108/68.1 dated 01.07.2023 to the present Appellant/Claimant and the EDC Note dated 14.12.2022 (Annexure-Z7) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 14.12.2022 (Annexure-Z7)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.05.2022 for organizing a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. wherein to the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Upper floor and the policy guidelines for alternate allotment in cases of on Upper floor is as under: 2. The ration card not submitted by the applicant for First floor.

3. As per policy guidelines, Part –B para 10 of the eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers. "If a different family, having separate Ration Card issued prior to 01.01.2015, which fulfils all the other eligibility criteria is living on the upper floor, the same will also be considered for allotment of a separate dwelling unit.

4. The applicant/claimant has failed to submit separate ration card prior to 01.01.2015 which is mandatory for determining eligibility in cases of upper floors. Hence, the applicant/claimant does not fulfil the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment."

18. The survey records placed on file shows that the triple storey Jhuggi No. F-86 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 14.12.2022 on the grounds of **"Upper Floor"** and further on the ground that **"the Appellant/ Claimant has failed to submit separate Ration Card"** and furthermore the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated

16.10.2024 16/10/2024 16/10/2024

01.07.2023 (Annexure-Z5) whereby sole reason for rejection is mentioned to be **"Upper Floor"** but the fact that the Appellant/ Claimant has failed to submit separate Ration Card has not been mentioned in the Rejection Order dated 01.07.2023 (Annexure-Z5). However, it is taken to be clerical/typographical mistake. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the triple storey Jhuggi No. F-86, which constitute single dwelling unit, and accordingly the parameters of ground floor is applicable and not that of the upper floor. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z5) whereby the sole reason for rejection is mentioned to be **"Upper Floor"** in the said rejection order under challenge before us but as mentioned above neither in the EDC Note dated 14.12.2022 (Annexure-Z7) nor in the Rejection Order dated 01.07.2023 (Annexure-Z5) it has been mentioned that the Appellant/ Claimant was also not having required documents other then the separate Ration Card. Thus, the perusal of the EDC Note dated 14.12.2022 (Annexure-Z7) shows that EDC has not disputed that in addition to the Ration Card the Appellant/ Claimant was not having the other requisite documents, including a valid Voter ID Card, on the cutoff date of 01.01.2015 and that her name does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further that the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. However, as already pointed out the bare perusal of the EDC Note dated 14.12.2022 (Annexure-Z7) shows that DDA has not disputed about the existence of the triple storey Jhuggi No. F-86, which constitute single dwelling unit, of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the EDC Note dated 08.01.2023 (Annexure-Z-C) as well as in the Rejection Order dated 01.07.2023 (Annexure-ZA) is not sustainable being erroneous, wrong and against the facts found by this Appellate Authority.

19. Accordingly, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to

16.10.2024 16/10/2024 16/10/2024

claim allotment against the triple storey Jhuggi No. F-86 as per the policy guidelines issued by DDA.

20. As per our discussion above, the bare perusal of the EDC Note dated 14.12.2022 (Annexure-Z7) shows that it is no where disputed by DDA as far as the existence of the triple storey Jhuggi No. F-86 of the Appellant/ Claimant and the Appellant/ Claimant along with her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the ground that the Appellant/ Claimant was not having separate Ration Card inspite of the fact that she has claimed allotment from DDA against the upper floor even though in the Rejection Order dated 01.07.2023 (Annexure-Z5) it has not been specifically mentioned that she was not having separate Ration Card but simply **"Upper Floor"** is mentioned. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit comprising of the triple storey Jhuggi No. F-86 except that she was allegedly not having all the requisite documents.

21. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photograph/video clip, about the existence of the triple storey Jhuggi No. F-86. Thus the statement of the Appellant/Claimant as well as the survey records/ photograph/video clips has duly proved that the triple storey Jhuggi No. F-86 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is living in the said triple storey Jhuggi No. F-86 and the same has been used by her for residential purposes.

22. Accordingly, we have no hesitation in holding that the triple storey Jhuggi No. F-86, which constitute single dwelling unit, was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living in the said double storey storey Jhuggi No. F-86 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said triple storey Jhuggi.

16-10-2024 16/10/2024 16/10/2024

23. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card & a separate Ration Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said triple storey Jhuggi No. F-86 as per the policy guidelines issued by DDA.

24. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z7, in support of her claim and prayed that DDA be directed to make allotment in her favour.

25. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-108/68.1 dated 01.07.2023.

26. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

16/10/2024 16/10/2024 16/10/2024

"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.

16.10.2024 16/10/2024 16/10/2024

- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

27. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

28. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

29. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the

16.10.2024 16/10/2024 16/10/2024

year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

30. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

31. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

32. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

33. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of,

16.10.2024 16/10/2024 16/10/2024

01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

34. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

35. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

16/10/2024 16/10/2024 16/10/2024

36. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

37. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

38. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced

16.10.2024 16/10/2024 16/10/2024

before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

39. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

40. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative

16-10-2024 16/10/2024 16/10/2024

allotment against the ground floor or against the first floor.

41. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

42. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

43. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

44. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate

16.10.2024 16/10/2024 16/10/2024

Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

45. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

46. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

47. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming

16.10.2024 16/10/2024 16/10/2024

alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

48. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

49. It is pointed out that the survey records placed on file shows that the Appellant/ Claimant has sought allotment from DDA against the triple storey Jhuggi No. F-86, which constitute single dwelling unit, and further there is no doubt that the triple storey Jhuggi No. F-86 of the Appellant/ Claimant was found to exist. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z5) whereby the sole reason for rejection is mentioned to be "Upper Floor" in the said rejection order under challenge before us. There is no doubt that in the EDC Note dated 14.12.2022 (Annexure-Z7) it has been mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and further she has failed to submit separate Ration Card but in the said Rejection Order dated 01.07.2023 (Annexure-Z5) it is no where mentioned that the Appellant/ Claimant was not having a separate Ration Card. The bare perusal of the EDC Note dated 14.12.2022 (Annexure-Z7) shows that DDA has not disputed about the existence of the triple storey Jhuggi No. F-86 of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the EDC Note dated 14.12.2022 (Annexure-Z7) as well as in the EDC Note dated 14.12.2022 (Annexure-Z7) is not sustainable being erroneous, wrong and against the facts found by this Appellate Authority because the material placed on file shows that the Appellant/ Claimant has admittedly sought allotment from DDA against the triple storey Jhuggi No. F-86, which constitute single dwelling unit, and this fact is not disputed even by DDA.

50. In view of the matter the ground of **"Upper Floor"** and further the ground that **"the Appellant/ Claimant has failed to submit separate Ration Card"** as reflected in the EDC Note dated 14.12.2022 (Annexure-Z7) and furthermore the Rejection Order dated 01.07.2023 (Annexure-Z5) whereby sole reason for rejection is mentioned to be **"Upper Floor"** are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority because the material placed on file shows that the Appellant/ Claimant has admittedly sought allotment from DDA against the triple storey Jhuggi No. F-86, which constitute single dwelling unit, and accordingly, the claim of the Appellant/ Claimant cannot be rejected on

16.10.2024 16/10/2024 16/10/2024

the grounds of "Upper Floor" and also that "she not having separate Ration Card". It is pointed out that we have already held that the triple storey Jhuggi No. F-86, which constitute single dwelling unit, was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said triple storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant and in view of the matter having a separate Ration Card is not a mandatory requirement for claiming allotment against the ground floor as per the policy guidelines issued by DDA.

51. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters for the ground floor as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the triple storey Jhuggi No. F-86 as per the policy guidelines issued by DDA.

52. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B), the Letter No. F. No. AERO/AC-17/2023/56 dated 17.05.2023 (Annexure-L) of AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-M), Voter List of the year 2013 (Annexure-N) and Voter List of the year 2014 (Annexure-O) in support of her claim.

53. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-Z and Annexure-Z1 to Annexure-Z7, in support of his claim. The Voter ID Card No. JPF 0888735 (Annexure-A) of the Appellant/Claimant has been issued on 01.01.2006. The Aadhar Card No. 9201 1901 0279 (Annexure-B) of the Appellant/Claimant has been issued on 03.10.2011. Both the documents (Annexure-A & Annexure-B) have been issued on the address of Jhuggi No. F-86, regarding which she is claiming allotment from DDA. Furthermore, the Letter No. F. No. AERO/AC-17/2023/56 dated 17.05.2023 (Annexure-L) of AERO, AC-17, Wazirpur shows that Voter ID Card No. JPF 0888735 (Annexure-A) of the Appellant/Claimant is a valid document

16.10.2024 16/10/2024 16/10/2024

as per the records of the Election Commission and further, this Voter ID Card is also reflected in the Voter List of the year 2012 to 2014. Moreover, the name of the Appellant/Claimant appears at Sl. No. 1030 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1030 in the Voter List of the year 2013 (Annexure-N) and at SL. No. 1151 in the Voter List of the year 2014 (Annexure-O). In all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0888735 and in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-M to Annexure-O) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-86, regarding which she is claiming allotment from DDA.

54. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card (Annexure-A) bearing number JPF 0888735 and it has been issued on 01.01.2006, much prior to the cut off date of 01.01.2015. The Aadhar Card (Annexure-B) of the Appellant/Claimant is bearing No. 9201 1901 0279 and it has been issued on 03.10.2011, much prior to the cut off date of 01.01.2015. Both the documents (Annexure-A & Annexure-B) have been issued on the address of Jhuggi No. F-86, regarding which she is claiming allotment from DDA. Furthermore, the Letter No. F. No. AERO/AC-17/2023/56 dated 17.05.2023 (Annexure-L) of AERO, AC-17, Wazirpur shows that Voter ID Card No. JPF 0888735 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, this Voter ID Card is also reflected in the Voter List of the year 2012 to 2014. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1030 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1030 in the Voter List of the year 2013 (Annexure-N) and at SL. No. 1151 in the Voter List of the year 2014 (Annexure-O). It is also pointed out that in all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0888735 and in all the abovementioned documents (Annexure-A, Annexure-B, Annexure-M to Annexure-O) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-86, regarding which she is claiming allotment from DDA. Furthermore, the issuance of the documents tendered on file shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. F-86 from 01.01.2006 (date of issuance of the Voter ID Card No. JPF 0888735 - Annexure-A) & from 03.10.2011 (date of issuance of the Aadhar Card No. 9201 1901 0279 - Annexure-B) to 19.08.2017 (date of issuance of the OBC Certificate - Annexure-J).

55. It is pointed out that we have already held that the bare perusal of the EDC Note dated

16.12.2024 Rawat 16/10/2024 16/10/2024

14.12.2022 (Annexure-Z7) shows that DDA has not disputed about the existence of the triple storey Jhuggi of the Appellant/ Claimant and accordingly the ground of **"Upper Floor"** and further the ground that **"the Appellant/ Claimant has failed to submit separate Ration Card"** as reflected in the EDC Note dated 14.12.2022 (Annexure-Z7) and furthermore the Rejection Order dated 01.07.2023 (Annexure-Z5) whereby sole reason for rejection is mentioned to be **"Upper Floor"** are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority because the material placed on file shows that the Appellant/ Claimant has admittedly sought allotment from DDA against the triple storey Jhuggi No. F-86, which constitute single dwelling unit, and accordingly, the claim of the Appellant/ Claimant cannot be rejected on the grounds of "Upper Floor" and also that "she not having separate Ration Card" and since the Appellant/ Claimant has admittedly claimed alternative allotment against the said triple storey Jhuggi No. F-86 and accordingly the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant. Thus there is no mandatory requirement of having a separate Ration Card because the present Appellant/ Claimant is not claiming allotment against the upper floor and accordingly the ground **"Upper Floor"** as reflected in the Rejection Order dated 01.07.2023 (Annexure-Z5) and further the ground **"Upper Floor"** as well as **"the Appellant/ Claimant having not submitted separate Ration Card"** as reflected in the EDC Note dated 14.12.2022 (Annexure-Z7) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority.

56. Thus the material placed on file shows that the Voter ID Card No. JPF 0888735 (Annexure-A) of the Appellant/Claimant has been issued on the address of the Jhuggi No. F-86 on 03.10.2011, much prior to the cutoff date 01.01.2015 and further the Aadhar Card (Annexure-B) of the Appellant/Claimant is bearing No. 9201 1901 0279 and it has been issued on 03.10.2011, much prior to the cut off date of 01.01.2015 and furthermore the Letter F. No. AERO/AC-17/2023/56 dated 17.05.2023 (Annexure-L) of AERO, AC-17, Wazirpur, has duly verified that the Voter ID Card No. JPF 0888735 (Annexure-A) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. JPF 0888735 (Annexure-A) has also been reflected in the Voter List of the years from 2012 to 2014 (Annexure-M to Annexure-O). Thus both the above mentioned documents (Annexure-A & Annexure-B) have been issued on the address of the triple storey Jhuggi No. F-86 regarding which the Appellant/Claimant is claiming allotment from DDA. Furthermore, the Letter F. No. AERO/AC-17/2023/56 dated 17.05.2023 (Annexure-L) of

16.10.2024 16/10/2024 16/10/2024

AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. JPF 0888735 (Annexure-A) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this JPF 0888735 (Annexure-A) has also been reflected in the Voter List of the years from 2012 to 2014. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1030 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1030 in the Voter List of the year 2013 (Annexure-N) and at SL. No. 1151 in the Voter List of the year 2014 (Annexure-O). It is also pointed out that in all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0888735 and in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-M to Annexure-O) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-86, regarding which she is claiming allotment from DDA.

57. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears in any of the voter list of the year's 2012, 2013 & 2014.

58. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because her name does not appear in the year 2015 and also in the year of survey, i.e., 2020 (because as per the survey records placed on file survey/videography was conducted on 19.03.2020) even though she was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2012, 2013 & 2014.

59. On this aspect it is pointed out that Voter Lists are not revised every year but under Section 21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

(iv) in any year if such revision has been directed by the Election Commission.

60. Therefore, the reasons for not tendering the Voter List of the year 2015 & 2020 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the year 2015 & 2020 (year of survey) when it was not prepared/ available with the Election Commission.

61. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years.

16.10.2024 16/10/2024 16/10/2024

Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains the Voter ID Card (Annexure-A) on 01.01.2006, much prior to the cutoff date of 01.01.2015 and also the Aadhar Card No. 9201 1901 0279 (Annexure-B) on 03.10.2011, much prior to the cutoff date of 01.01.2015 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears in the voter list of the year's 2012 to 2014 but their name happened to be not appearing in the Voter List of the year 2015 & 2020 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter list of the year 2015 & 2020 even though they possess all the relevant documents, including a valid Voter Id Card on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2012 to 2014 and further all these documents in unequivocal terms shows that they have been continuously living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which she is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the year 2015 & 2020 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the voter list of the year 2015 & 2020 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No. JPF 0888735 dated 01.01.2006 (Annexure-A) & Aadhar Card No. 9201 1901 0279 dated 03.10.2011, which have been issued on the address of Jhuggi No. F-86, Jailorwala Bagh, regarding which she is claiming allotment from DDA. Further, the Letter F. No. AERO/AC-17/2023/56 dated 17.05.2023 (Annexure-L) of AERO, AC-17, Wazirpur, has duly verified the Voter ID Card No. JPF 0888735 dated 01.01.2006 (Annexure-A) of the Appellant/Claimant to be a valid document as per the records of the Election Commission and further, this Voter ID Card No. JPF 0888735 dated 01.01.2006 (Annexure-A) has also been reflected in the Voter List of the years from 2012 to

16.10.2024 16/10/2024 16/10/2024

2014 (Annexure-M to Annexure-O). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1030 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1030 in the Voter List of the year 2013 (Annexure-N) and at SL. No. 1151 in the Voter List of the year 2014 (Annexure-O). It is also pointed out that in all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0888735 and in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-M to Annexure-O) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-86, regarding which she is claiming allotment from DDA. This shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. F-86 from 01.01.2006 (date of issuance of the Voter ID Card No. JPF 0888735 - Annexure-A) & from 03.10.2011 (date of issuance of the Aadhar Card No. 9201 1901 0279 - Annexure-B) to 19.08.2017 (date of issuance of the OBC Certificate - Annexure-J) and even till today. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-86 regarding which he has been claiming allotment from DDA and further his name also appears in the voter list of the year's 2012 to 2014.

62. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because her name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

63. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

"33. .....Therefore, even though these petitioners could not produce the

16.10.2024 16/10/2024 16/10/2024

record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."

"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together

16.10.2024 16/10/2024 16/10/2024

and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

64. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

65. On this aspect it is pertinent to point out that when the triple storey Jhuggi No. F-86 of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and she is also found to be having a valid Voter ID Card & also a Aadhar Card on the cutoff date of 01.01.2015 and further she possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then her claim can not be rejected by taking hyper technical view especially when she was having a valid Voter ID Card (Annexure-A) & Aadhar Card (Annexure-B) on the cutoff date of 01.01.2015 and further her name also appears continuously in the Voter Lists from the years 2012 to 2014 (Annexure-M to Annexure-O) and all the documents have been issued on the address of Jhuggi No. F-86 regarding which she is claiming allotment from DDA and further she as well her family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

66. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears in any of the voter list of the year's 2012, 2013 & 2014 and further the reasons for her name having not reflected in the Voter List of years 2015 & of the year survey (2020) has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly the second ground of the Voter ID Card of the Appellant/ Claimant having not found to have verified as reflected in the EDC Note dated 14.12.2022 (Annexure-Z-7) and also in the Rejection Order dated 01.07.2023 (Annexure-Z-5) is not sustainable being erroneous, wrong and against the facts found by this Appellate Authority.

16.10.2024 16/10/2024 16/10/2024

67. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with her family was living in Jhuggi No. F-86 since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lend support to the claim put forward by the Appellant/Claimant.

68. The Appellant/Claimant has tendered the Voter ID Card No. JPF 0870782 (Annexure-C) of her husband Vishnu Dev, the Voter ID Card No. WHC 1491315 (Annexure-D) of her son Arvind, the Gas connection document (Annexure-E), ID Card (Annexure-F) issued by Delhi Building & Construction Labour Welfare Board, the Ration Card No. 077004041167 (Annexure-G), Passbook of Bank of India (Annexure-H), Electricity Bill (Annexure-I), OBC Certificate (Annexure-J), e-SHRAM Card (Annexure-K), Aadhar Card (Annexure-P) & PAN Card (Annexure-Q) of her son Arvind, Voter ID Card No. WHC 3637642 (Annexure-R) of her daughter Indu, Voter ID Card No. WHC 3637634 (Annexure-S) of her daughter Anshu, Voter ID Card No. WHC 3674850 (Annexure-T) of her daughter-in-law, Shivani, Aadhar Cards (Annexure-U to Annexure-Y) of Shivani, Ritu, Indu, Anshu & Srishti, Voter ID Card No. WHC 1850774 (Annexure-Z) of Ritu, Aadhar Card (Annexure-Z-1) of Shivam, Passbook of PNB (Annexure-Z-2) and Passbooks of Union Bank (Annexure-Z-3 & Annexure-Z-4) of Shivam and Indu Kumari in support of her claim.

69. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has also tendered documents, Annexure-C to Annexure-K, Annexure-R to Annexure-Z and Annexure-Z-1 to Annexure-Z-4, in support of her claim. The Voter ID Card No. JPF 0870782 (Annexure-C) of her husband Vishnu Dev has been issued on 28.07.2009. Furthermore, the name of Vishnu Dev appears at Sl. No. 1027 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1027 in the Voter List of the year 2013 (Annexure-N) & at SL. No. 1148 in the Voter List of the year 2014 (Annexure-O) and in all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of Vishnu Dev is mentioned to be JPF 0870782 and further in all the above mentioned documents (Annexure-C & Annexure-M to Annexure-O) the address of Vishnu Dev is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA. Further, the Voter ID Card (Annexure-D) of her son Arvind is bearing No. WHC 1491315 and it has been issued on 22.02.2009 and furthermore, the name of Arvind appears at Sl. No. 1034 in the Voter List

16.10.2024 16/10/2024 16/10/2024

of the year 2012 (Annexure-M), at Sl. No. 1034 in the Voter List of the year 2013 (Annexure-N) & at SL. No. 1158 in the Voter List of the year 2014 (Annexure-O) and in all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of Arvind is mentioned to be WHC 1491315 and in all the above mentioned documents (Annexure-D & Annexure-M to Annexure-O) the address of Arvind is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA. The Gas Connection Document (Annexure-E) shows that the Appellant/Claimant has taken the gas connection on the address of Jhuggi No. F-86 on 05.04.2014. The ID Card (Annexure-F) issued by Delhi Building & Construction Labour Welfare Board has been issued in favour of the Appellant/Claimant on the address of Jhuggi No. F-86 on 04.08.2014. The Ration Card (Annexure-G) is bearing No. 077004041167 and it has been issued in favour of her daughter Neetu on the address of Jhuggi No. F-86 on 07.07.2014. The Passbook of Bank of India (Annexure-H) shows that the Appellant/Claimant has opened the account on 04.02.2013. The Electricity Bill (Annexure-I) shows that the Appellant/Claimant had taken the electricity connection on 13.06.2005. The OBC Certificate (Annexure-J) has been issued in favour of the Appellant/Claimant on 19.08.2017 and further, the e-SHRAM Card (Annexure-K) has also been issued in her favour. Furthermore, in all the above mentioned documents (Annexure -E to Annexure-K) the address is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA. Furthermore, the Voter ID Card No. WHC 3637642 (Annexure-R) of her daughter Indu has been issued on 23.09.2022 and the Voter ID Card No. WHC 3637634 (Annexure-S) of her daughter Anshu has been issued on 23.09.2022, the Voter ID Card No. WHC 3674850 (Annexure-T) of her daughter-in-law, Shivani, has been issued on 21.11.2023 and the Voter ID Card No. WHC 1850774 (Annexure-Z) of her daughter Ritu has been issued on 26.01.2013. All these documents have been issued on the address of the Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA. Further, the Aadhar Card No. 6494 3054 7054 (Annexure-U) of her daughter-in-law, Shivani, has been issued on the address of the Jhuggi No. F-86, on 17.01.2012. The Aadhar Cards (Annexure-V to Annexure-Y & Anneuxure-Z-1) of her children, Ritu, Indu, Anshu, Srishti & Shivam, have also been issued on the address of the Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA. Furthermore, the Passbook of PNB (Annexure-Z-2) shows that her son Arvind had opened the account on 26.08.2008 and the Passbook of Union Bank (Annexure-Z-3) shows that her son Shivam had opened the account on 29.10.2012 and the Passbook of Union Bank (Annexure-Z-4) shows that her daughter Indu

16.10.2024 16/10/2024 16/10/2024

had opened the account on 26.10.2012 and in all the above-mentioned documents, the address is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

70. It is pointed out that the Appellant/Claimant has tendered the Voter ID Card No. JPF 0870782 (Annexure-C) of her husband Vishnu Dev which has been issued on 28.07.2009, much prior to the cut off date of 01.01.2015. Furthermore, the name of Vishnu Dev appears at Sl. No. 1027 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1027 in the Voter List of the year 2013 (Annexure-N) & at SL. No. 1148 in the Voter List of the year 2014 (Annexure-O). Further, in all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of Vishnu Dev is mentioned to be JPF 0870782 and in all the above mentioned documents (Annexure-C & Annexure-M to Annexure-O) the address of Vishnu Dev is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

71. It is also pointed out that the Voter ID Card (Annexure-D) of her son Arvind is bearing No. WHC 1491315 and it has been issued on 22.02.2009, much prior to the cut off date of 01.01.2015 and furthermore, the name of Arvind appears at Sl. No. 1034 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1034 in the Voter List of the year 2013 (Annexure-N) & at SL. No. 1158 in the Voter List of the year 2014 (Annexure-O). Furthermore, in all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of Arvind is mentioned to be WHC 1491315 and in all the above mentioned documents (Annexure-D & Annexure-M to Annexure-O) the address of Arvind is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

72. It is pointed out that the Gas Connection Document (Annexure-E) shows that the Appellant/Claimant has taken the gas connection on the address of Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA, on 05.04.2014, much prior to the cut off date of 01.01.2015. The ID Card (Annexure-F) issued by Delhi Building & Construction Labour Welfare Board has been issued in favour of the Appellant/Claimant on the address of Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA, on 04.08.2014, much prior to the cut off date of 01.01.2015. The Ration Card (Annexure-G) is bearing No. 077004041167 and it has been issued in favour of her daughter Neetu on the address of Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA and the further, it has been issued on 07.07.2014, much prior to the cut off date of 01.01.2015. The Passbook of Bank of

16.10.2024 Rawat 16/10/2024 16/10/2024

India (Annexure-H) shows that the Appellant/Claimant has opened the account on 04.02.2013, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-I) shows that the Appellant/Claimant had taken the electricity connection on 13.06.2005, much prior to the cut off date of 01.01.2015. The OBC Certificate (Annexure-J) has been issued in favour of the Appellant/Claimant on 19.08.2017 and further, the e-SHRAM Card (Annexure-K) has also been issued in her favour. Furthermore, in all the above mentioned documents (Annexure -E to Annexure-K) the address is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

73. It is also pointed out that the Voter ID Card No. WHC 3637642 (Annexure-R) of her daughter Indu has been issued on 23.09.2022 and the Voter ID Card No. WHC 3637634 (Annexure-S) of her daughter Anshu has been issued on 23.09.2022, the Voter ID Card No. WHC 3674850 (Annexure-T) of her daughter-in-law, Shivani, has been issued on 21.11.2023 and the Voter ID Card No. WHC 1850774 (Annexure-Z) of her daughter Ritu has been issued on 26.01.2013. All these documents have been issued on the address of the Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA. The Voter ID Card No. WHC 1850774 (Annexure-Z) of her daughter Ritu has been issued on 26.01.2013, much prior to the cutoff date of 01.01.2015. Further, the Aadhar Card No. 6494 3054 7054 (Annexure-U) of her daughter-in-law, Shivani, has been issued on the address of the Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA and further it has been issued on 17.01.2012, much prior to the cutoff date of 01.01.2015. Furthermore, the Aadhar Cards (Annexure-V to Annexure-Y & Anneuxure-Z-1) of her children, Ritu, Indu, Anshu, Srishti & Shivam, have also been issued on the address of the Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

74. It is also pointed out that the Passbook of PNB (Annexure-Z-2) shows that her son Arvind had opened the account on 26.08.2008 and the Passbook of Union Bank (Annexure-Z-3) shows that her son Shivam had opened the account on 29.10.2012 and the Passbook of Union Bank (Annexure-Z-4) shows that her daughter Indu had opened the account on 26.10.2012. Further, it is pointed out that all the accounts were opened much prior to the cutoff date of 01.01.2015 and further in all the above-mentioned documents, the address is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

75. The Appellant / Claimant has tendered her documents and also of her family members,

16-10-2024 16/10/2024 16/10/2024

namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, e-SHRAM Cards, Ration Card, OBC Certificate, Electricity Bill, Gas Connection, ID card issued by Delhi Building & Construction Labour Welfare Board and Bank Passbooks etc. and all these documents have been issued from 2006 to 2023 and it accordingly amply establishes that she as well as her family members have been living jointly in the single storey Jhuggi No. F-86, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

76. In view of the matter as per our discussion above, the material placed on file supports the claim of the Appellant/ Claimant and shows that the Appellant/ Claimant fulfils the eligibility criteria as per the policy guidelines issued by DDA as under: -

(a) The material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/ Claimant was & still living separately & independently in the triple storey Jhuggi No. F-86, which constitute single dwelling unit and further as per our discussion above, the documents, Annexure-A to Annexure-Z and AnnexureZ-1 to Annexure-Z-7, shows that the Appellant/Claimant was having a valid Voter ID Card (Annexure-A) bearing number JPF 0888735 and it has been issued on 01.01.2006, much prior to the cut off date of 01.01.2015. The Aadhar Card (Annexure-B) of the Appellant/Claimant is bearing No. 9201 1901 0279 and it has been issued on 03.10.2011, much prior to the cut off date of 01.01.2015. Both the documents (Annexure-A & Annexure-B) have been issued on the address of Jhuggi No. F-86, regarding which she is claiming allotment from DDA.

(b) Furthermore, the Letter No. F. No. AERO/AC-17/2023/56 dated 17.05.2023 (Annexure-L) of AERO, AC-17, Wazirpur shows that Voter ID Card No. JPF 0888735 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, this Voter ID Card is also reflected in the Voter List of the year 2012 to 2014. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 1030 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1030 in the Voter List of the year 2013 (Annexure-N) and at SL. No. 1151 in the Voter List of the year 2014 (Annexure-O). It is also pointed out that in all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0888735 and in all the above mentioned documents (Annexure-A, Annexure-B, Annexure-M to Annexure-O) the address of the Appellant/Claimant is mentioned to be Jhuggi No. F-86,

16.10.2024 16/10/2024 16/10/2024

regarding which she is claiming allotment from DDA. Furthermore, the issuance of the documents tendered on file shows that the Appellant/Claimant has been continuously living in the said Jhuggi No. F-86 from 01.01.2006 (date of issuance of the Voter ID Card No. JPF 0888735 - Annexure-A) & from 03.10.2011 (date of issuance of the Aadhar Card No. 9201 1901 0279 - Annexure-B) to 19.08.2017 (date of issuance of the OBC Certificate - Annexure-J) and even till today.

(c) The material placed on file also shows that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears in any of the voter list of the year's 2012, 2013 & 2014 and further the reasons for her name having not reflected in the Voter List of the years 2015 & year of survey (2020) has been well explained in this case but all these relevant & material facts were not duly considered by EDC.

(d) The material placed on file also shows that the Appellant/Claimant has tendered the Voter ID Card No. JPF 0870782 (Annexure-C) of her husband Vishnu Dev, the Voter ID Card No. WHC 1491315 (Annexure-D) of her son Arvind, the Gas connection document (Annexure-E), ID Card (Annexure-F) issued by Delhi Building & Construction Labour Welfare Board, the Ration Card No. 077004041167 (Annexure-G), Passbook of Bank of India (Annexure-H), Electricity Bill (Annexure-I), OBC Certificate (Annexure-J), e-SHRAM Card (Annexure-K), Aadhar Card (Annexure-P) & PAN Card (Annexure-Q) of her son Arvind, Voter ID Card No. WHC 3637642 (Annexure-R) of her daughter Indu, Voter ID Card No. WHC 3637634 (Annexure-S) of her daughter Anshu, Voter ID Card No. WHC 3674850 (Annexure-T) of her daughter-in-law, Shivani, Aadhar Cards (Annexure-U to Annexure-Y) of Shivani, Ritu, Indu, Anshu & Srishti, Voter ID Card No. WHC 1850774 (Annexure-Z) of Ritu, Aadhar Card (Annexure-Z-1) of Shivam, Passbook of PNB (Annexure-Z-2) and Passbooks of Union Bank (Annexure-Z-3 & Annexure-Z-4) of Shivam and Indu Kumari in support of her claim.

(e) The material placed on file also shows that the Appellant/Claimant has tendered the Voter ID Card No. JPF 0870782 (Annexure-C) of her husband Vishnu Dev which has been issued on 28.07.2009, much prior to the cut off date of 01.01.2015. Furthermore, the name of Vishnu Dev appears at Sl. No. 1027 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1027 in the Voter List of the year 2013 (Annexure-N) & at SL. No. 1148 in the Voter List of the year 2014 (Annexure-O). Further, in all the Voter Lists (Annexure-M

16.10.2024 16/10/2024 16/10/2024

to Annexure-O), the number of the Voter ID Card of Vishnu Dev is mentioned to be JPF 0870782 and in all the above mentioned documents (Annexure-C & Annexure-M to Annexure-O) the address of Vishnu Dev is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

(f) The material placed on file also shows that the Voter ID Card (Annexure-D) of her son Arvind is bearing No. WHC 1491315 and it has been issued on 22.02.2009, much prior to the cut off date of 01.01.2015 and furthermore, the name of Arvind appears at Sl. No. 1034 in the Voter List of the year 2012 (Annexure-M), at Sl. No. 1034 in the Voter List of the year 2013 (Annexure-N) & at SL. No. 1158 in the Voter List of the year 2014 (Annexure-O). Furthermore, in all the Voter Lists (Annexure-M to Annexure-O), the number of the Voter ID Card of Arvind is mentioned to be WHC 1491315 and in all the above mentioned documents (Annexure-D & Annexure-M to Annexure-O) the address of Arvind is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

(g) The material placed on file also shows that the Gas Connection Document (Annexure-E) shows that the Appellant/Claimant has taken the gas connection on the address of Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA, on 05.04.2014, much prior to the cut off date of 01.01.2015. The ID Card (Annexure-F) issued by Delhi Building & Construction Labour Welfare Board has been issued in favour of the Appellant/Claimant on the address of Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA, on 04.08.2014, much prior to the cut off date of 01.01.2015. The Ration Card (Annexure-G) is bearing No. 077004041167 and it has been issued in favour of her daughter Neetu on the address of Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA and the further, it has been issued on 07.07.2014, much prior to the cut off date of 01.01.2015. The Passbook of Bank of India (Annexure-H) shows that the Appellant/Claimant has opened the account on 04.02.2013, much prior to the cut off date of 01.01.2015. The Electricity Bill (Annexure-I) shows that the Appellant/Claimant had taken the electricity connection on 13.06.2005, much prior to the cut off date of 01.01.2015. The OBC Certificate (Annexure-J) has been issued in favour of the Appellant/Claimant on 19.08.2017 and further, the e-SHRAM Card (Annexure-K) has also been issued in her favour. Furthermore, in all the above mentioned documents (Annexure -E to Annexure-

16.10.2024 Rawat 16/10/2024 16/10/24

K) the address is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

(h) The material placed on file also shows that the Voter ID Card No. WHC 3637642 (Annexure-R) of her daughter Indu has been issued on 23.09.2022 and the Voter ID Card No. WHC 3637634 (Annexure-S) of her daughter Anshu has been issued on 23.09.2022, the Voter ID Card No. WHC 3674850 (Annexure-T) of her daughter-in-law, Shivani, has been issued on 21.11.2023 and the Voter ID Card No. WHC 1850774 (Annexure-Z) of her daughter Ritu has been issued on 26.01.2013. All these documents have been issued on the address of the Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA. The Voter ID Card No. WHC 1850774 (Annexure-Z) of her daughter Ritu has been issued on 26.01.2013, much prior to the cutoff date of 01.01.2015. Further, the Aadhar Card No. 6494 3054 7054 (Annexure-U) of her daughter-in-law, Shivani, has been issued on the address of the Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA and further it has been issued on 17.01.2012, much prior to the cutoff date of 01.01.2015. Furthermore, the Aadhar Cards (Annexure-V to Annexure-Y & Anneuxure-Z-1) of her children, Ritu, Indu, Anshu, Srishti & Shivam, have also been issued on the address of the Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA.

(i) The material placed on file also shows that the Passbook of PNB (Annexure-Z-2) shows that her son Arvind had opened the account on 26.08.2008 and the Passbook of Union Bank (Annexure-Z-3) shows that her son Shivam had opened the account on 29.10.2012 and the Passbook of Union Bank (Annexure-Z-4) shows that her daughter Indu had opened the account on 26.10.2012. Further, it is pointed out that all the accounts were opened much prior to the cutoff date of 01.01.2015 and further in all the above-mentioned documents, the address is mentioned to be Jhuggi No. F-86, regarding which the Appellant/Claimant is claiming allotment from DDA. The abovementioned documents also corroborate that the entire family was living jointly in Jhuggi No. F-86.

(j) The material placed on file further shows that the Appellant/Claimant as well as her husband Vishnu Dev and Children, Arvind, Indu, Ritu, Anshu, Neetu & Shivani are having their respective Voter ID Cards & Aadhar Cards, Electoral Rolls, e-SHRAM Cards, Ration Card, OBC Certificate, Electricity Bill, Gas Connection, ID card issued by Delhi Building & Construction Labour Welfare Board and further they are also maintaining Bank accounts

16.10.2024 16/10/2024 16/10/2024

on the address of Jhuggi No. F-86, Jailorwala Bagh, Ashok Vihar and it corroborates that the Appellant/Claimant along with her husband Vishnu Dev and Children have been living jointly in the triple storey Jhuggi No. F-86, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

(k) The material placed on file shows that the Gas Connection (Annexure-E), ID card (Annexure-F) issued by Delhi Building & Construction Labour Welfare Board, the Ration Card (Annexure-G), Bank Pass Books (Annexure-H, and Annexure-Z-1 to Annexure-Z-4), Electricity Bill (Annexure-I), OBC Certificate (Annexure-J) and e-SHRAM Card (Annexure-K) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with her family members was living in the Jhuggi No. F-86 since long and much prior to the Cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. policy guidelines issued by DDA.

77. In view of our findings above, we have no hesitation in holding that the survey records placed on file shows that the triple storey Jhuggi No. F-86, which constitute single dwelling unit, Jailorwala Bagh, Ashok Vihar of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 but her claim was rejected by EDC on 14.12.2012 (Annexure-Z-7) on two grounds, namely, **"Upper Floor"** and further **"the Appellant/ Claimant has failed to submit separate Ration Card"** and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z-5) whereby sole reason for rejection is mentioned to be **"Upper Floor".** The material placed on file shows that the Appellant/Claimant has not claimed allotment from DDA against the first floor but she has claimed allotment against the triple storey Jhuggi No. F-86, which is a single dwelling unit, and moreover the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further her name also appears in any of the voter list of the year's 2012, 2013 & 2014 and furthermore, the reasons for her name having not reflected in the Voter List of years 2015 & of the year of survey (2020) has been well explained in this case and furthermore, the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and in addition to that the Appellant/Claimant has tendered her documents and also of her family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, e-SHRAM Cards, Ration Card, OBC Certificate, Electricity Bill, Gas Connection, ID card issued by Delhi Building

16.10.2024 16/10/2024 16/10/2024

& Construction Labour Welfare Board and Bank Passbooks etc. and all these documents have been issued from 2006 to 2023 and it accordingly amply establishes that she as well as her family members have been living jointly in the triple storey Jhuggi No. H-842, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds of rejection **"Upper Floor"** and **"the Appellant/ Claimant has failed to submit separate Ration Card"** as reflected in the EDC Note dated 14.12.2012 (Annexure-Z-7) and the sole ground "**Upper Floor**" as reflected in the Rejection Order dated 01.07.2023 (Annexure-Z-5) are not sustainable in the eyes of law being erroneous, wrong and against the facts. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

78. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected her claim. Hence the present appeal No. 04 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-108/68.1 dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant, Shakuntla Devi W/o Vishnu Dev, in respect of the triple storey Jhuggi No. F-86, Jailorwala Bagh, Ashok Vihar.

79. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

16/10/2024 16/10/2024 16/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 142 of 2024

Date of Institution: 17.07.2023

Date of Order: 21.10.2024

Present: Appellant/ Claimant Shanti W/o Ekram

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. N-207/1450, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-207/1450 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-20/008.G dated

21.10.2024 Rawat 21/10/2024 21/10/2024

01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 142 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 02.07.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure- Z, Annexure-ZA & Annexure-ZB, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. N-207/1450 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. N-207/1450 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Shanti has been recorded before us on 02.07.2024 wherein she has stated that she is married with Ekram and having three sons; Himanshu, Manish & Ashish and one daughter Anita. All the children are unmarried.

21.10.2024 21/10/2024 21/10/2024

9. The Appellant/Claimant has stated that her family is having a double Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and a bamboo ladder has been placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that she has sought allotment from DDA against the said double storey Jhuggi bearing No. N-207/1450 but her claim has been rejected by Eligibility Determination Committee on the ground that she was found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly claimed allotment against the said double storey Jhuggi No. N-207/1450 and further she is having all the requisite documents as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 142 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure- Z, Annexure-ZA & Annexure-ZB, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. N-207/1450. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. N-207/1450 on 17.03.2020 on the ground floor of the said Jhuggi and her photograph (Annexure-Z) is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. N-207/1450. The video was played before the Appellant/Claimant when her statement was recorded before us on 02.07.2024 wherein she has stated that the video clip pertains to the Jhuggi No. N-207/1450 in which the Appellant/Claimant is seen and getting the survey conducted on the said Jhuggi and further, her room & kitchen are also seen and further, she is also heard thereby making a statement that her Jhuggi is a double storey Jhuggi and it has been occupied by her family and further, she is also seen holding a slate in her hand on which **"E-19 N-207/1450 SHANTI G+1"** is seen to have been written.

13. It is pointed out that that the Appellant/Claimant has stated that she and her husband are illiterate and the description about the Jhuggi on the slate was written at the time of survey by the member of the survey team. The Appellant/Claimant has also stated that she has

21.10.2024 21/10/2024

sought allotment from DDA against the double storey Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar but in the Rejection Order dated 01.07.2023 (Annexure- ZA) the number of her Jhuggi has been wrongly given to be Jhuggi No. E-19/N-207/1450, Jailorwala Bagh, Ashok Vihar instead of Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar due to clerical mistake and further along with her Representation made to DDA she had annexed her documents, which were issued on the address of Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar and nothing was concealed by her.

14. On this aspect it is pointed out that the Appellant/Claimant has nothing to do about the wrong description of the Jhuggi on the slate to be bearing Jhuggi No. **"E-19 N-207/1450"** instead of Jhuggi No. N-207/1450. Furthermore, in the survey records tendered by DDA it is clearly mentioned that the Jhuggi of the Appellant/Claimant was surveyed by the survey team of DDA on 17.03.2020 and in the survey records it is clearly mentioned that the Jhuggi of the Appellant/Claimant was surveyed vide Survey No. 350-20/008.G on 17.03.2020 and in the survey the double storey Jhuggi of the Appellant/Claimant bearing No. N-207/1450 was found to exist in Jailorwala Bagh, Ashok Vihar. Furthermore, the Appellant/Claimant has also stated that she has sought allotment from DDA against the said double storey Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar but in the Rejection Order dated 01.07.2023 (Annexure- ZA) the number of her Jhuggi has been wrongly given to be Jhuggi No. E-19/N-207/1450, Jailorwala Bagh, Ashok Vihar instead of Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar due to clerical mistake because along with her Representation made to DDA she had annexed her documents, which were issued on the address of Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar. There is no doubt that the material placed on file shows that the Appellant/Claimant had submitted Representation along with requisite documents to DDA for seeking alternative allotment against Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar. It is also not disputed that DDA had conducted survey vide "350-20/008.G" whereby her Jhuggi N-207/1450, was found to exist in Jailorwala Bagh, Ashok Vihar but her claim was rejected by the Eligibility Determination Committee on the grounds **"Voter Card Not verified / Upper Floor"**. The Appellant/Claimant had submitted her documents, including the Voter ID Cards, Aadhar Cards etc. along with her Representation and in all these documents her address had been mentioned to be Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar. Thus the Appellant/Claimant has not concealed any material facts. Furthermore, in due course all these documents were also minutely scrutinized by EDC and there are no findings that any of these documents pertains to some other Jhuggi. But as already pointed out

21.10.2024 21/10/2024

above, the claim of the present Appellant/Claimant was rejected by the EDC on the grounds **"Voter Card Not verified / Upper Floor"**. Thus there is nothing to disbelieve the statement of the Appellant/Claimant because the material placed on file corroborates her statement that she with clean hands has sought allotment from DDA against the double storey Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar by submitting Representation along with documents, which were issued on the address of Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar, but in the Rejection Order dated 01.07.2023 (Annexure- ZA) the number of her Jhuggi has been wrongly given to be Jhuggi No. E-19/N-207/1450, Jailorwala Bagh, Ashok Vihar instead of Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar due to some clerical mistake and further in the video clip she is seen to have been holding a slate in her hand on which **"E-19 N-207/1450 SHANTI G+1"** is seen to have been written because of lapse on part of the survey team inspite of the fact that she has sought allotment from DDA against double storey Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar and further in the survey conducted on 17.03.2020 vide survey No. "350-20/008.G" whereby her double storey Jhuggi N-207/1450, was found to exist in Jailorwala Bagh, Ashok Vihar. Therefore, no fault can be found with the Appellant/Claimant in wrong mentioning of Jhuggi number in the Rejection Order dated 01.07.2023 (Annexure- ZA) and also on the slate at the time of survey especially when DDA has neither disputed about the identity nor about the existence of the Jhuggi of the Appellant/Claimant.

15. The statement of the Appellant/Claimant as well as her photograph (Annexure-Z) taken by the survey team at the time of survey and the video clip prepared by the survey team of DDA clearly shows that the family of the Appellant/Claimant is living in the double storey Jhuggi No. N-207/1450 and further both the floors are single dwelling unit. Furthermore, the Appellant/Claimant along with her family is living in the said double storey Jhuggi No. N-207/1450 and further both the floors are single dwelling unit and the same has been used by her for residential purposes but her claim has been rejected BY EDC on the grounds that she was not having requisite documents but the existence of the Jhuggi of the Appellant/Claimant is not disputed by DDA.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 20.12.2022

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

21.10.2024 Mawat 21/10/2024 21/10/2024

17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 20.12.2022 and the Nodal Officer, Kathputli Colony, duly communicated its order dated 01.07.2023 (Annexure-ZA) to the present Appellant/Claimant and the EDC Note dated 20.12.2022 (Annexure-ZB) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 20.12.2022 (Annexure-ZB)

> *"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.03.2022 for organized a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. Wherein, the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground and the policy guidelines for alternate allotment in cases of Ground is as under:*
>
> *2. As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under: - The name of JJ dwellers must appear in at least one of the Voter Lists of the Year's 2012, 2013, 2014, 2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However, name of the applicant does not appear in voter lists of year 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015), the Voter Card number WHC 2301513 submitted by the applicant and not found valid. Found after cutoff date.*
>
> *3. The applicant/claimant has failed to submit valid voter ID. card. hence, the applicant/claimant does not fulfill the eligibility criteria. The applicant/claimant is found ineligible for alternative."*

18. The survey records placed on file shows that the Jhuggi No. N-207/1450 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 20.12.2022 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-ZA) because had her Jhuggi found on the upper floor then EDC would have considered as to whether she was having separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for

21.10.2024 21/10/2024

the upper floor. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the double storey Jhuggi No. N-207/1450, which constitute single dwelling unit. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 20.12.2022 (Annexure-ZB) it has been mentioned that the Voter ID Card No. WHC 2301513 was not a valid document and further her name does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that she was not having a separate Ration Card. The bare perusal of the EDC Note dated 20.12.2022 (Annexure-ZB) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 20.12.2022 (Annexure-ZB). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) needs to be determined. Accordingly, we shall appraise the material placed on file to determine whether the Voter ID Card No. WHC 2301513 of the Appellant/ Claimant is a valid document or not in the later part of this order.

19. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/1450 as per the policy guidelines issued by DDA.

20. As per our discussion above, the bare perusal of the EDC Note dated 20.12.2022 (Annexure-ZB) shows that it is no where disputed by DDA as far as the existence of the double storey Jhuggi No. N-207/1450 of the Appellant/ Claimant and the Appellant/ Claimant along with

21.10.2024 21/10/2024

her family living there separately & independently and using it for residential purposes is concerned but her claim was rejected on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified and further her name was found not to appear in the voter list of the year's 2012, 2013, 2014 and 2015. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and her name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit comprising of the double storey Jhuggi No. N-207/1450 except that she was allegedly not having all the requisite documents.

21. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photograph/video clip, about the existence of the double storey Jhuggi No. N-207/1450. Thus the statement of the Appellant/Claimant as well as the survey records/ photograph/video clips has duly proved that the double storey Jhuggi No. N-207/1450 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is living in the said double storey Jhuggi No. N-207/1450 and the same has been used by him for residential purposes.

22. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. N-207/1450 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still living in the said double storey storey Jhuggi No. N-207/1450 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

23. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted

21.10.2024 21/10/2024

in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said double storey Jhuggi No. N-207/1450 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, Annexure-ZA & Annexure-ZB, and prayed that DDA be directed to make allotment in her favour.

25. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-20/008.G dated 01.07.2023.

26. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<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.

21.10.2024 21/10/2024 24/10/2024

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

21.10.2024 21/10/2024

the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

27. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

28. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

29. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

30. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

21.10.2024 21/10/2024

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

31. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

32. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

33. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether

21.10.2024 21/10/2024

they are claiming alternative allotment from DDA against the ground floor or upper floor.

34. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

35. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

36. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore,

21.10.2024 21/10/2024

the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

37. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

38. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

39. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by

21.10.2024 21/10/2024 24/10/2024

the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

40. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

41. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers

21.10.2024 21/10/2024

must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

42. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

43. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

44. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued

21.10.2024 Rawat 21/10/2024 21/10/2024

before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

45. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

46. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

47. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

48. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

49. It is pointed out that we have already held that the double storey Jhuggi No. N-207/1450 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA

21.10.2024 21/10/2024 21/10/2024

against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

50. It is also pointed out that we have already held that the Jhuggi No. N-207/1450 of the Appellant/ Claimant was found to exist but her claim was rejected by EDC on 20.12.2022 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-ZA) because had her Jhuggi found on the upper floor then EDC would have considered as to whether she was having separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for the upper floor. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the double storey Jhuggi No. N-207/1450, which constitute single dwelling unit. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-ZA) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 20.12.2022 (Annexure-ZB) it has been mentioned that the Voter ID Card No. WHC 2301513 was not a valid document and further her name does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that she was not having a separate Ration Card. The bare perusal of the EDC Note dated 20.12.2022 (Annexure-ZB) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 20.12.2022 (Annexure-ZB). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-ZA) needs to be determined. Accordingly, we shall appraise the material placed on file to determine

21.10.2024 21/10/2024 21/10/2024

whether the Voter ID Card No. WHC 2301513 of the Appellant/ Claimant is a valid document or not. Thus the fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether her name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail by us herein below.

51. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the double storey Jhuggi No. N-207/1450 as per the policy guidelines issued by DDA.

52. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2301513 (Annexure-A), Aadhar Card (Annexure-B), Internet Report (Annexure-C) pertaining to the Aadhar Card, PAN Card (Annexure-D), two Affidavits (Annexure-O & Annexure-Q), Letter No. F. No. AERO/AC-17/2024/182 dated 27.05.2024 (Annexure-R) issued by AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-V), Voter List of the year 2013 (Annexure-W), Voter List of the year 2014 (Annexure-X) and Voter List of the year 2015 (Annexure-Y) in support of her claim.

53. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2301513 (Annexure-A) and it has been issued on 27.11.2018, much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in the voter List of 2012 to 2015 does not arise. Furthermore, in this Voter ID Card, the name of the Appellant/Claimant is mentioned to be "Shanti W/o Ekram". However, no Voter list or any of the records from Election Office has been tendered by the Appellant/Claimant to show that she has used her Voter ID Card No. WHC 2301513 dated 27.11.2018 (Annexure-A) to cast vote in any of the elections after it was issued in the year 2018. This creates doubt & suspicion about the genuineness & veracity of this Voter ID Card No. WHC 2301513 dated 27.11.2018 (Annexure-A) and shows that the EDC has rightly found that the Voter ID Card

21.10.2024 21/10/2024

No. WHC 2301513 could not be verified and further that her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015.

54. The Claimant has tendered her Aadhar Card (Annexure-B) bearing No. 5678 7563 6148 and it has also been issued on the address of the Jhuggi No. N-207/1450, Jailorwala Bagh, Ashok Vihar and her name is mentioned to be "Shanti W/o Ek Ram" and further as per the Internet Report (Annexure-C) downloaded from the website of UIDAI, the Aadhar Card (Annexure-D) was issued on 17.09.2013 and initially her name was mentioned to be "Seema W/o Ek Ram" and her date of birth was mentioned to be 01.01.1980 but on 28.06.2017 the name was got changed from "Seema W/o Ek Ram" to "Shanti W/o Ek Ram" and the date of birth was also got changed from 01.01.1980 to 01.01.1981. This further creates doubt & suspicion as the Appellant/Claimant has got the entries changed in order to fabricate documents to grab allotment from DDA by hook or crook.

55. The Appellant/Claimant has tendered the Letter No. F. No. AERO/AC-17/2024/182 Dated 27.05.2024 (Annexure-R) issued by AERO, AC-17, Wazirpur in which it has been mentioned that "Ms. Shobha" is having a Voter ID Card No. WHC 2013844 and as per the records of the Election Commission, her name does not appear in the Voter Lists of the year 2012 & 2013 but her name is duly reflected in the Voter Lists of the year 2014 & 2015. Furthermore, the name of the said "Shobha W/o Ek Ram" is reflected at Sl. No. 1457 in the Voter List of the year 2014 (Annexure-S) & at Sl. No. 1070 in the Voter List of the year 2015 (Annexure-T). Furthermore, in both the Voter Lists (Annexure-S & Annexure-T), the number of the Voter ID Card of the said Ms. Shobha is mentioned to be WHC 2013844 and the address is mentioned to be N-207/1450 Jailorwala Bagh, Ashok Vihar but in all the documents, her name is mentioned to be "Shobha W/o Ekram". Now it is to be seen as to who is this "Ms. Shobha" whose name is referred in the Letter Dated 27.05.2024 (Annexure-R) and further whether "Shobha W/o Ek Ram" reflected in the Voter Lists (Annexure-S & Annexure-T) is none other then the present Appellant/Claimant, Shanti W/o Ekram.

56. The Appellant/Claimant has tendered her two Affidavits (Annexure-O & Annexure-Q) and both are dated 26.06.2024. Thus tendering of two Affidavits pertaining to the same date creates doubt & suspicion especially when the Affidavit dated 26.06.2024 (Annexure-Q) does not bear the signature of the Appellant/Claimant even though it bears the signature & seal of the Notary Public. This shows that the Appellant/Claimant has tried to forge & fabricate the documents to grab allotment from DDA by hook or crook.

21.10.2024 21/10/2024 21/10/2024

57. It is pointed out that in the Affidavit dated 26.06.2024 (Annexure-O) it is mentioned that in her Voter ID Card her name is written to be "Shobha" whereas in all other documents her name is corrected written to be "Shanti" and further "Shanti" & "Shobha" are one & the same person. However, it is pertinent to point out that the number of her Voter ID Card is not disclosed in this Affidavit dated 26.06.2024 (Annexure-O). Further, the Letter No. F. No. AERO/AC-17/2024/182 (Annexure-R) issued by AERO, AC-17, Wazirpur was already obtained by the Appellant/Claimant on 27.05.2024 in which it has been mentioned that "Ms. Shobha" is having a Voter ID Card No. WHC 2013844 and as per the records of the Election Commission, the name of Shobha is duly reflected in the Voter Lists of the year 2014 & 2015. And it shows that the present Appellant/Claimant has given her Affidavit dated 26.06.2024 (Annexure-O) in order to show that the said "Ms. Shobha" referred in the the Letter No. F. No. AERO/AC-17/2024/182 dated 27.05.2024 (Annexure-R) as well as in the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) pertains to her. But in the said Affidavit dated 26.06.2024 (Annexure-O) the Appellant/Claimant has not disclosed all the material particulars and most importantly even the number of her Voter ID Card is not disclosed. Thus this creates doubt & suspicion as far as the Affidavit dated 26.06.2024 (Annexure-O) is concerned and it shows that this document is fabricated in order to grab allotment from DDA by hook or crook.

58. Further in the Affidavit dated 26.06.2024 (Annexure-Q) the details of her family members has been given thereby disclosing that her family constitute of four persons and the name of her four children are given there but very surprisingly the name of her husband Ekram is conspicuously missing and it is no where mentioned that he is also the member of her family. Furthermore, this Affidavit dated 26.06.2024 (Annexure-Q) is duly notarized and bears the signature & seal of the Notary but it is pertinent to point out that this Affidavit dated 26.06.2024 (Annexure-Q) is not signed by the Appellant/Claimant. However, the fact cannot be lost sight that the signature & seal of the Notary Public was got affixed even though it was not signed by the Appellant/Claimant and accordingly the genuineness & veracity of this document is shrouded in suspicion. Thus this creates doubt & suspicion as far as the Affidavit dated 26.06.2024 (Annexure-Q) is concerned and it shows that this document is fabricated in order to grab allotment from DDA by hook or crook.

59. The Appellant/Claimant has tendered a Notice (Annexure-P), which was got published by her in "Punjab Kesri" Newspaper dated 03.12.2019 whereby it is mentioned that her name is wrongly mentioned to be "Seema" in place of her correct name "Shanti" in her Ration Card.

21.10.2024 21/10/2024 21/10/2024

It is very surprising that in her Ration Card also her name is wrongly mentioned. Furthermore, the Appellant/Claimant had taken steps to get her name corrected in her Ration Card by getting a notice published in "Punjab Kesri" Newspaper dated 03.12.2019 but in that notice she has nowhere stated that her name is wrongly mentioned to be "Ms. Shobha or Shobha W/o Ekram" in the Voter ID Card No. WHC 2013844 and also in the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) and further she has not made any attempt to get the said entries corrected in the Voter ID Card No. WHC 2013844 and also in the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T). Had the Voter ID Card No. WHC 2013844 and also the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) relating to the present Appellant/Claimant then she would have got the entries changed as was done by her by getting a Notice (Annexure-P) published in "Punjab Kesri Newspaper dated 03.12.2019" in order to get her name corrected in her Ration Card.

60. Here it is pointed out that no photograph of the said Ms. Shobha has been printed in the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) and accordingly it could not be verified that the said "Ms. Shobha" is none other then the present Appellant/Claimant and further the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) pertains to the present Appellant/Claimant, Shanti W/o Ekram. Furthermore, the Appellant/Claimant, Shanti W/o Ekram, has not tendered the said Voter ID Card No. WHC 2013844 to corroborate her stand. No explanation has been put forward by the Appellant/Claimant to explain as to why the Voter ID Card No. WHC 2013844 has not been placed on file if this pertains to her. The said Voter ID Card No. WHC 2013844 is duly reflected the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) and the duplicate copy of the Voter ID Card No. WHC 2013844 could be very well obtained from the Election Commission even if the Appellant/Claimant did not possess the original. But neither the original nor the duplicate copy, which could have been easily obtained from Election Commission, has been placed on file by the Appellant/Claimant. This creates doubt & suspicion.

61. There is no doubt that in the Voter List of the year 2014 (Annexure-S) and in the Voter List of the year 2015 (Annexure-T) the name of the said "Shobha W/o Ek Ram" is reflected at Sl. No. 1457 in the Voter List of the year 2014 (Annexure-S) & at Sl. No. 1070 in the Voter List of the year 2015 (Annexure-T). Furthermore, in both the Voter Lists (Annexure-S & Annexure-T), the number of the Voter ID Card of the said Ms. Shobha is mentioned to be WHC 2013844 and the address is mentioned to be N-207/1450 Jailorwala Bagh, Ashok Vihar but in all the documents, her name is mentioned to be "Shobha W/o Ekram". It seems that the

21.10.2024 21/10/2024

Appellant/Claimant has tried in futility to connect her with "Shobha W/o Ekram" and also that these documents (Annexure-R to Annexure-T) pertains to her. Merely mentioning the address Jhuggi No. N-207/1450 in the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) is not sufficient to draw inference that "Shobha W/o Ek Ram" reflected in the Voter Lists (Annexure-S & Annexure-T) is none other then the present Appellant/Claimant, Shanti W/o Ekram.

62. Furthermore, in this letter Dated 27.05.2024 (Annexure-R) it is nowhere mentioned about the identity of the person, who had approached the office of the Election Commission, to provide this information and whether the applicant had provided the copy of the Voter ID Card No. WHC 2013844 and other details about her residence etc, to the election office. In this letter it is no where mentioned that it was the present Appellant/Claimant, who had supplied the copy of the Voter ID Card No. WHC 2013844 and had sought requisite information about the said Voter ID Card from the election office. The bare perusal of the letter Dated 27.05.2024 (Annexure-R) shows that it is some "Ms. Shobha", who had sought information about her Voter ID Card No. WHC 2013844 and this person was not the present Appellant/Claimant because had it been so then these facts would have been clearly reflected in letter Dated 27.05.2024 (Annexure-R) and further the present Appellant/Claimant would have also placed the copy of the Voter ID Card No. WHC 2013844 before us on file.

63. There is no doubt that in both the Voter Lists (Annexure-S & Annexure-T), the number of the Voter ID Card of the said Ms. Shobha is mentioned to be WHC 2013844 and the address is mentioned to be N-207/1450 Jailorwala Bagh, Ashok Vihar. Further, in both the documents, her name is mentioned to be "Shobha W/o Ekram" and not "Shanti W/o Ekram". Here it is pointed out that photograph of the said Ms. Shobha has not been printed in the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T). The Appellant/Claimant has intentionally not tendered the Voter ID Card No. WHC 2013844 in order to conceal material facts from us. It is a matter of common observation that the photograph of person is printed in all the Voter ID cards and resultantly had the Voter ID Card No. WHC 2013844 tendered on record by the Appellant/Claimant then it could have been very easily revealed that the said "Ms. Shobha" referred in the letter Dated 27.05.2024 (Annexure-R) and also mentioned as "Shobha W/o Ekram" in the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) is not the present Appellant/Claimant "Shanti W/o Ekram" but in fact she is some other lady. Therefore, the fact of not tendering of the Voter ID Card No. WHC 2013844 is fatal to

21.10.2024 21/10/2024 21/10/2024

the case of the Appellant/Claimant. This shows that the Appellant/Claimant has intentionally concealed material facts with a dishonest intention to grab allotment from DDA by hook or crook.

64. It is pertinent to point out that the Appellant/Claimant along with her representation made to DDA for seeking allotment had annexed her Voter ID Card bearing number WHC 2301513 dated 27.11.2018 (Annexure-A) but it was not found to be valid document by EDC and further her name was also not found to be appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 as reflected in the EDC Note dated 20.12.2022 (Annexure-ZB). However, when the present Appellant/Claimant had taken steps to procure information from the Election Commission regarding the Voter ID Card No. WHC 2013844 and had tendered the documents (Annexure-R to Annexure-T) then she would have also approached to get information from the Election Commission regarding the genuineness & veracity of the Voter ID Card No. WHC 2301513 dated 27.11.2018 (Annexure-A) but no documents issued by the Election Commission are placed on file to show that her Voter ID Card No. WHC 2301513 dated 27.11.2018 (Annexure-A) is a valid document. This accordingly creates doubt & suspicion about the validity of this Voter ID Card No. WHC 2301513 dated 27.11.2018 (Annexure-A) and shows that the EDC has rightly found that the Voter ID Card No. WHC 2301513 has not been found to be a valid document and further that her name also does not appear in the Voter List of the year's 2012, 2013, 2014 and 2015.

65. Thus we have no hesitation in holding that the Voter ID Card No. WHC 2013844 does not pertain to the present Appellant/Claimant "Shanti W/o Ekram" and further the Letter No. F. No.AERO/AC-17/2024/182 Dated 27.05.2024 (Annexure-R) issued by AERO, AC-17, Wazirpur as well as the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) are of no help to the present Appellant/Claimant because it relates to some other lady, "Ms. Shobha", who is referred to "Shobha W/o Ekram" in the Voter Lists of the years 2014 & 2015 (Annexure-S & Annexure-T) and accordingly it does not pertain to the present Appellant/Claimant "Shanti W/o Ekram".

66. It has already been pointed out above by us that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2301513 dated 27.11.2018 (Annexure-A), which has been issued much after the cutoff date of 01.01.2015 and accordingly, the question of her name appearing in the voter List of 2012 to 2015 does not arise. Furthermore, no records from Election Office has been tendered by the Appellant/Claimant to show that this Voter

21.10.2024 21/10/2024 21/10/2024

ID Card WHC 2301513 dated 27.11.2018 is a valid document and further no Voter List has been tendered to show that she has used her Voter ID Card No. WHC 2301513 dated 27.11.2018 (Annexure-A) to cast vote in any of the elections after it was issued in the year 2018. This creates doubt & suspicion on the genuineness & veracity of this Voter ID Card No. WHC 2301513 dated 27.11.2018 (Annexure-A) and accordingly it has been rightly mentioned in the EDC Note dated 20.02.2024 (Annexure-ZB) that the Voter ID Card No. WHC 2301513 was not a valid document and further her name does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015).

67. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/1450 regarding which she has been claiming allotment from DDA and further her name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

68. The Appellant/Claimant has tendered Ration Cards (Annexure-E & Annexure-F), Passbook of Union Bank (Annexure-G), the Voter ID Card No. JPF 0676346 (Annexure-H), Aadhar Card (Annexure-I) & PAN Card (Annexure-J) of her husband Ek Ram as well as Aadhar Cards (Annexure-K to Annexure-M) of her children Himanshu, Manish & Ashish and the Letter No. F. No. AERO/AC-17/2024/209 dated 26.06.2024 (Annexure-U) issued by AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-V), Voter List of the year 2013 (Annexure-W), Voter List of the year 2014 (Annexure-X) and Voter List of the year 2015 (Annexure-Y) in support of her claim.

69. It is pointed out that the first Ration Card (Annexure-E) is bearing No. BPL 53160086 and it has been issued in favour of her husband Ekram and the name of his wife is mentioned to be "Seema" in that Ration Card and further, the name of his daughter Anita is also recorded but the names of other children are conspicuously missing. However, there is no link evidence to show that the said "Seema" is none but the present Appellant/Claimant. The second Ration Card (Annexure-F) is bearing No. 077004469223 and it has been issued on 20.09.2014 in favour of the present Appellant/Claimant and her name is reflected to be "Shanti" and the name of her son Himanshu is also mentioned but the names of her husband and other children are conspicuously missing. It is also pointed out that the Passbook of Union Bank (Annexure-G) shows that the Appellant/Claimant has opened the account on

21.10.2024 21/10/2024

16.08.2019 and her name is mentioned to be "Shanti" but the account has been opened much after the cutoff date of 01.01.2015. Further, the Electricity Bill (Annexure-N) also shows that the Appellant/Claimant had taken the electricity connection on 20.03.2018, much after the cutoff date of 01.01.2015. It is also pointed out that the Appellant/Claimant has tendered three Aadhar Cards (Annexure-K to Annexure-M) of her children Himanshu, Manish & Ashish and they have been issued on 17.09.2013, 07.03.2015 & 02.02.2024 respectively and further, in all these documents, the address is mentioned to be N-207/1450, Jailorwala Bagh, Ashok Vihar. It is pointed out that the Voter ID Card No. JPF 0676346 (Annexure-H) of her husband Ek Ram has been issued on 06.06.2002, much prior to the cutoff date of 01.01.2015 but it has been issued on the address of the Jhuggi No. CN-91, E-Block, Jailorwala Bagh. Furthermore, the Aadhar Card (Annexure-I) of Ek Ram is bearing No. 5468 8651 6997 and it has been issued on 31.10.2015 on the address of the Jhuggi No. CN-91, E-Block, Jailorwala Bagh. Furthermore, the Letter No. F. No.AERO/AC-17/2024/209 Dated 26.06.2024 issued by AERO, AC-17, Wazirpur (Annexure-U) duly verifies that the Voter ID Card No. JPF 0676346 (Annexure-H) of her husband Ek Ram to be a valid document and further, this Voter ID Card is also reflected in the Voter Lists of the year 2012 to 2015 as per the records of the Election Commission. Furthermore, the name of her husband Ek Ram is also mentioned at Sl. No. 799 in the Voter List of the year 2012 (Annexure-V), at Sl. No. 799 in the Voter List of the year 2013 (Annexure-W), at Sl. No. 817 in the Voter List of the year 2014 (Annexure-X) & at Sl. No. 944 in the Voter List of the year 2015 (Annexure-Y). Further, it is also pointed out that all the Voter Lists (Annexure-V to Annexure-Y), the number of the Voter ID Card of Ek Ram is mentioned to be JPF 0676346 (Annexure-H) and further, in the Voter ID Card (Annexure-H), Aadhar Card (Annexure-I) & Voter Lists of the year 2012 to 2015 (Annexure-V to Annexure-Y), the address of Ek Ram is mentioned to be Jhuggi No. CN-91, Jailorwala Bagh, Ashok Vihar and not on the address of Jhuggi No. N-207/1450 regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly none of these documents are material to determine the eligibility of the Appellant/Claimant. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/1450 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to

21.10.2024 21/10/2024 21/10/2024

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.

70. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

71. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/1450 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure- Z, Annexure-ZA & Annexure-ZB, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

72. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress

21.10.2024 21/10/2024

material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-20/008.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

73. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in complian ce of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

21.10.2024 Ahlawat 21/10/2024 Tiwary 21/10/2024

(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 226 of 2024

Date of Institution: 25.07.2023

Date of Order: 21.10.2024

Present: Appellant/ Claimant Radha W/o Indrason

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. G-41/6, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-41/6 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-32/0046.G

21.10.2024 21/10/2024 21/10/2024

dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 226 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 09.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as by Sh. Radhe Shyam Meena, Dy. Director, for DDA, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's storey Jhuggi bearing No. G-41/6 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified/ Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. G-41/6 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Radha has been recorded before us on 09.10.2024 wherein she has stated that she is married with Inddrasan and having four children; Rahul, Sachin, Ruchi & Nitu. Rahul & Sachin are unmarried. Ruchi is married with Deepak & Nitu is

21.10.2024 21/10/2024 21/10/2024

married with Jiwak but both the daughters along with their respective families are living with their parents in their double storey Jhuggi No. G-41/6. Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. G-41/6, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that she has sought allotment from DDA against the said double storey Jhuggi NO. G-41/6 but her claim was rejected by Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly claimed allotment against the double storey Jhuggi No. G-41/6 and further, she is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 226 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-D, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. G-41/6. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. G-41/6 on 17.03.2020 on the ground floor of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. G-41/6. The video was played before the Appellant/Claimant when her statement was recorded before us on 09.10.2024 wherein she has stated that the video clip pertains to the Jhuggi No. G-41/6 in which Jhuggi No. G-41/6 is clearly seen to be a pucca double storey structure and further, a bamboo ladder placed outside in the gali and used for going to the upper floor is also seen and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen is also seen on the ground floor and she is also seen holding a slate in her hand on which **"G-41/6 RADHA G+1"** is clearly seen to have been written.

21.10.2024 21/10/2024 21/10/2024

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. G-41/6. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. G-41/6 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. G-41/6 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the double storey Jhuggi No. G-41/6 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-D, in support of her claim and prayed that DDA be directed to make allotment in her favour.

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff 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

21.10.24 Rawat 21/10/2024

Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-32/0046.G dated 01.07.2023.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
> 10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
> 11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

21.10.2024 21/10/2024 21/10/2024

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

19. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

20. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those

21.10.2024 21/10/2024 21/10/2024

12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

22. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

23. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

21.10.2024 21/10/2024 21/10/2024

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

26. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

21.10.2024 21/10/2024

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

29. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

30. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various

21.10.2024 21/10/2024 21/10/2024

States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

31. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ

21.10.2024 21/10/2024 21/10/2024

Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of each 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation

21.10.2024 Rawat 21/10/2024

policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

21.10.2024 21/10/2024 21/10/2024

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. G-41/6 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the double storey Jhuggi No. G-41/6 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered her Voter ID Card No. WHC 2333318 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

44. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2333318 (Annexure-A) and it has been issued on 02.04.2019, much after the cutoff date of 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists

21.10.2024 21/10/2024

of the years from 2012 to 2015 does not arise. Furthermore, the Appellant/Claimant has tendered her Aadhar Card (Annexure-B) bearing No. 4141 0711 4773 but the date of issuance is not mentioned in this document. The material placed on file shows that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date 01.01.2015 issued on the address of the Jhuggi No. G-41/6, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further, her name also does not appear in any of the Voter Lists of the year 2012 to 2015.

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. G-41/6 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/Claimant has also tendered the Passbook of Bank of Baroda (Annexure-C) and Electricity Bill (Annexure-D) in support of her claim.

47. It is pointed out that the Passbook of Bank of Baroda (Annexure-C) shows that the Appellant/Claimant has opened the account on 20.02.2016, much after the cutoff date of 01.01.2015. Furthermore, the Electricity Bill (Annexure-D) shows that the electricity connection has been taken by the Appellant/Claimant on 03.05.2006. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. G-41/6 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit

21.10.2024 Mawat 21/10/2024 21/10/2024

of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. G-41/6 regarding which she has been claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that she very well knew that she did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-D, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-32/0046.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. Copy of this order be supplied to both the parties as per rules within three days from the

21.10.2024 21/10/2024

date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 250 of 2024

Date of Institution: 05.09.2023

Date of Order: 22.10.2024

Present: Appellant/ Claimant Asha Rani W/o Manik Raj Suman

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. C-47 Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-47 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

22.10.2024 Claimant 22/10/2024 24/10/2024

Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-15/79.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 250 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. C-47 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not *Verified* / *Upper Floor*"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. C-47 as per the policy guidelines issued by DDA.

8. The statement of the Appellant / Claimant Asha Rani has been recorded before us on

22.10.2024 22/10/2024 22/10/2024

10.10.2024 wherein she has stated that she is married with Manik Raj Suman and having three children, Mayank, Bhumika & Harshita. All the children are unmarried.

9. The Appellant/Claimant has stated that previously they were living in Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar but it was in dilapidated condition and accordingly they had left Jailorwala Bagh, Ashok Vihar about 20 years ago after locking the Jhuggi No. C-47 and went to live on rent in Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi. The Appellant/Claimant has categorically stated that for the last twenty years they are continuously living on rent in Azadpur, Delhi whereas Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar is lying locked for the last twenty years.

10. The Appellant/Claimant has stated that she has sought allotment from DDA against the said single storey Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar but her claim has been rejected by the Eligibility Determination Committee on the ground that she has been found to have claim allotment from DDA against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly sought allotment from DDA against the said single storey Jhuggi No. C-47 and further she is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same she has filed the present Appeal no. 250 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. C-47. As per survey records the survey was got conducted on 18.03.2020 by the Appellant/Claimant of Jhuggi No. C-47 while standing in front of the said Jhuggi and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. C-47. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 10.10.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. C-47 in which the Jhuggi No. C-47 is seen lying locked in a dilapidated condition

22.10.2024 22/10/2024 24/10/2024

and further the Appellant/Claimant is seen standing outside in the gali in front of the said Jhuggi No. C-47 and she is heard stating that the said Jhuggi No. C-47 is not habitable for the last twenty years and they are living on rent and further she is seen holding a slate in her hand on which **"C-47 ASHA RANI G/F"** is seen to have been written.

13. The admission of the Appellant/Claimant is a clincher piece of evidence because the Appellant/Claimant has specifically stated that previously they were living in Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar but it was in dilapidated condition and accordingly they had left Jailorwala Bagh, Ashok Vihar about 20 years ago after locking the Jhuggi No. C-47 and went to live on rent in Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi. The Appellant/Claimant has categorically stated that for the last twenty years they are continuously living on rent in Azadpur, Delhi whereas Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar is lying locked for the last twenty years. Thus the Appellant/Claimant was not living in Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015.

14. Furthermore, in the video clip prepared by the survey team the Appellant/Claimant is heard thereby stating that the said Jhuggi No. C-47 is lying locked for the last twenty years and it is not habitable and furthermore, they are living on rent. Moreover, the Appellant/Claimant has appeared before us and made statement on 10.10.2024 thereby admitting that they are living on rent in Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi and further, her Voter ID Card and that of her husband have been issued on the address of Azadpur, Delhi and not on the address of Jhuggi No. C-47 Jailorwala Bagh, Ashok Vihar. This shows that for the last twenty years Jhuggi No. C-47 is lying locked and it is in a dilapidated condition and also not habitable and furthermore, the Appellant/Claimant has been living on rent in Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi for the last twenty years, thereby, showing that the Appellant/Claimant on the cutoff date 01.01.2015 was not living in Jhuggi No. C-47 regarding which she is claiming allotment from DDA and accordingly, the Appellant/Claimant is not eligible to claim allotment from DDA as per the policy guidelines issued by DDA.

15. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar is lying locked for the last 20 years in dilapidated condition and the the Appellant/Claimant was not living in the said Jhuggi No. C-47 on the cutoff date of 01.01.2015 because the Appellant/Claimant along with her family has been living on rent in Azadpur, Delhi for the last 20 years and accordingly, the Appellant/Claimant is not entitled

22.10.2024 22/10/2024 24/10/2024

to claim alternative allotment from DDA against the said single storey Jhuggi as per the policy guidelines issued by DDA.

16. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. C-47 as per the policy guidelines issued by DDA.

17. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment 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.
> 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

22-10-2024 22/10/2024 24/10/2024

Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

19. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi

22.10.2024 Mawat 22/10/2024

or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

20. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

22. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

23. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card,

22.10.2024 Jhawat 22/10/2024 24/10/2024

will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

26. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a

22.10.2024 Rawat 22/10/2024

stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

29. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for

22.10.2024 22/10/2024 24/10/2024

obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

30. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

31. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of

22/10/2024 G. Rawat 22/10/2024 Rawat 22/10/2024

evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

22.10.2024 Mawat 22/10/2024 24/10/2024

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned

22.10.2024 Rawat 22/10/2024 22/10/2024

Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the single storey Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar is lying locked for the last 20 years in dilapidated condition and the Appellant/Claimant was not living in the said Jhuggi No. C-47 on the cutoff date of 01.01.2015 because the Appellant/Claimant along with her family has been living on rent in Azadpur, Delhi for the last 20 years and accordingly, the Appellant/Claimant is not entitled to claim alternative allotment from DDA against the said single storey Jhuggi as per the policy guidelines issued by DDA. But despite that the Appellant/Claimant has claimed alternative

22.10.2024 Mawat 22/10/2024 22/10/2024

allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. C-47 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered her Voter ID Card No. AKC 0068288 (Annexure-A) and Aadhar Card (Annexure-B) in support of her claim.

44. It is pointed out that the Voter ID Card No. AKC 0068288 (Annexure-A) of the Appellant/Claimant has been issued on 16.10.2008 but it has been issued on the address of Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi where she is living as present for the last 20 years and not on the address of Jhuggi No. C-47 regarding which the Appellant/Claimant is claiming allotment from DDA. Furthermore, the Appellant/Claimant has also not tendered any Voter List to show that she had used her Voter ID Card to cast vote in any of the elections and more particularly in the years from 2012 to 2015. This shows that the Appellant/Claimant was not having Voter ID Card on the cutoff date 01.01.2015 issued on the address of Jhuggi No. C-47 regarding which she is claiming allotment from DDA and further her name does not appear in the in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey. Furthermore, her Aadhar Card No. 3794 6286 3430 (Annexure-B) has been issued on 08.12.2011 on the address of Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar. However, it is pointed out that the Appellant/Claimant has categorically stated that for the last twenty years they are not living in Jhuggi No. C-47 but they are living on rent in Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi and accordingly, issuance of Aadhar Card No. 3794 6286 3430 (Annexure-B) on 08.12.2011 on the address of Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar creates doubt and suspicion and this shows that this document hag got prepared to grab allotment from DDA by hook or crook.

22.10.2024 Mawat 22/10/2024 24/10/2024

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.C-47 Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/Claimant has tendered Voter ID Card No. CQB 0763946 (Annexure-C) & Aadhar Card (Annexure-F) of her husband Manik Raj Suman, Ration Cards (Annexure-D & Annexure-E) and Electricity Bill (Annexure-G) in support of her claim.

47. It is pointed out that the Voter ID Card No. CQB 0763946 (Annexure-C) of her husband Manik Raj Suman has been issued on 21.03.2002 but it has been issued on the address of Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi where they are living on rent for the last 20 years and not on the address of Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant. Furthermore, the Appellant/Claimant has tendered Aadhar Card No. 3179 7521 6773 (Annexure-F) of her husband Manik Raj Suman but the date of issuance is not mentioned but this Aadhar Card is issued on the address of Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar. However, it is pointed out that the Appellant/Claimant has categorically stated that for the last twenty years they are not living in Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar but they are living on rent in Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi and accordingly, issuance of Aadhar Card No. 3179 7521 6773 (Annexure-F) of her husband Manik Raj Suman on the address of Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar creates doubt and suspicion and this shows that this document has got prepared to grab allotment from DDA by hook or crook.

48. The Appellant/Claimant has tendered two Ration Cards (Annexure-D & Annexure-E). The old Ration Card No. BPL 17030272 (Annexure-D) has been issued in favour of her husband Manik Raj Suman on 15.05.2010 and the name of the Appellant/Claimant and children are mentioned. Furthermore, the new Ration Card No. 077002554416 (Annexure-E) has been issued in favour of the Appellant/Claimant and the name of her children are mentioned but the date of issuance is not mentioned. However, it is pointed out that both the Ration Cards (Annexure-D & Annexure-E) have been issued on the address of Jhuggi No. C-47, Jailorwala

22.10.2024 Rawat 22/10/2024 22/10/2024

Bagh, Ashok Vihar. However, it is pointed out that the Appellant/Claimant has categorically stated that for the last twenty years they are not living in Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar but they are living on rent in Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi and accordingly, issuance of both the Ration Cards (Annexure-D & Annexure-E) on the address of Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar creates doubt and suspicion and this shows that these documents have got prepared to grab allotment from DDA by hook or crook.

49. The Electricity Bill (Annexure-G) shows that her husband Manik Raj Suman had taken electricity connection on 12.10.2012 on the address of Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar. However, it is pointed out that the Appellant/Claimant has categorically stated that for the last twenty years they are not living in Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar but they are living on rent in Jhuggi No. 113-B, Budh Mandir wali gali, Azadpur, Delhi and accordingly, issuance of Electricity Bill (Annexure-G) on the address of Jhuggi No. C-47, Jailorwala Bagh, Ashok Vihar creates doubt and suspicion and this shows that these documents have got prepared to grab allotment from DDA by hook or crook.

50. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. C-47 regarding which the Appellant/Claimant is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

51. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which

22/10/2024 Rawat 22/10/2024 24/10/2024

were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.C-47 Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

53. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-15/79.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

54. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court

22/10/2024 22/10/2024 22/10/2024

of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

22.10.2024 22/10/2024 22/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 59 of 2024

Date of Institution: 12-07-2024

Date of Order: 22.10.2024

Present: Appellant/ Claimant Ram Bahadur S/o Sita Ram

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present the Appellant/ Claimant Ram Bahadur S/o Sita Ram along with his brother, Jeet Bahadur S/o Sita Ram, had made a joint Representation to the Competent Authority thereby alleging that they are living in Jhuggi bearing No. A-82 Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The joint Appellant(s)/ Claimant(s) submitted representation to the competent authority along with requisite documents, thereby, alleging that they fulfill the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the joint Appellant(s)/ Claimant(s) thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the joint Appellant(s)/ Claimant(s) were given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. The Eligibility Determination Committee has considered the claim of the joint Appellant/ Claimant on merits and on verifications of documents submitted by the joint Appellant(s)/ Claimant(s) the Eligibility Determination Committee has come to the conclusion that the joint Appellant(s)/ Claimant(s) were found to have

22.10.2024 22/10/2024 24/10/2024

been using the said Jhuggi bearing No. A-82 exclusively for commercial purposes and accordingly the present joint Appellant(s)/ Claimant(s) do not fulfill the eligibility criteria as per the policy guidelines issued by DDA and consequently the Eligibility Determination Committee has rejected the claim of the joint Appellant(s)/ Claimant(s) for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/141 dated 01.07.2023 to the joint Appellant(s)/ Claimant(s). Aggrieved by the same, the present Appeal No. 59 of 2024 has been filed by the present Appellant/ Claimant Ram Bhadur S/o Sita Ram but the joint Appellant/ Claimant, Jeet Bahadur S/o Sita Ram, has preferred not to file an appeal.

3. In response to the notice, the present Appellant/ Claimant Ram Bhadur S/o Sita Ram has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the present Appellant/ Claimant Ram Bhadur S/o Sita Ram has been recorded before us on 14.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A & Annexure-G, in support of his claim. DDA has furnished the survey records.

5. Arguments advanced by the present Appellant/ Claimant Ram Bhadur S/o Sita Ram as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Appellant/ Claimant's Jhuggi bearing No. A-82 Jailorwala Bagh, Ashok Vihar was found to have been used for commercial purposes and accordingly they were 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 them by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Jhuggi is used solely for commercial purpose"** and aggrieved by the same the Appellant/ Claimant Ram Bhadur S/o Sita Ram has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/ Claimant Ram Bhadur S/o Sita Ram. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. A-82 Jailorwala Bagh, Ashok Vihar was rightly found to have been exclusively used for

22.10.2024 S. Rawat 22/10/2024 22/10/2024

commercial purposes on the cutoff date of 01.01.2015 and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.

8. Therefore, it has to be first seen as to what is the legal position with regard to running of shop under the policy guidelines issued by DDA. First of all, we shall discuss the legal 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.

22.10.2024 Rawat 22/10/2024 22/10/2024

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

9. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

10. As already pointed out above, condition contained in Clause 1 (8) & (9) of Part–B of DDA policy runs as under:

"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."

"9. In case, the jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the jhuggi

22/10/2024 22/10/2024 22/10/2024

is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person."

11. Thus the policy guideline issued by DDA stipulates that the commercial use of Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit. In the light of our discussion above, we shall appraise the material placed on file to determines as to whether the Appellant/ Claimant is entitled to claim allotment against the said Jhuggi No A-82 Jailorwala Bagh, Ashok Vihar as per the policy guidelines issued by DDA.

12. Firstly, we shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was using the Jhuggi No. A-82 Jailorwala Bagh, Ashok Vihar, exclusively for commercial purposes or it was put to mixed use for residential-cum-commercial purposes. Secondly, in the later part of this order we shall appraise the material placed on file to determines as to whether the Appellant/ Claimant was having all the requisite documents, including Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

13. Now we shall appraise the material placed on file to determines as to whether the Appellant/ Claimant was using the Jhuggi No. A-82 Jailorwala Bagh, Ashok Vihar, exclusively for commercial purposes or or it was put to mixed use for residential-cum-commercial purposes.

14. The statement of the Appellant/Claimant Ram Bahadur has been recorded before us on 14.10.2024 wherein he has stated that his parents, Sita Ram & Mandhra Devi, are having four sons, Jeet Bahadur, Ram Bahadur, Puran & Hari Shankar and two daughters, Indra Bala & Anita. All the children are married. Indra Bala is married with Lalman and Anita is married with Ajay and both the daughters are living in their respective matrimonial homes in Varanasi, Uttar Pradesh. Hari Shankar is married with Kavita and having three children and they are also living in Varanasi, Uttar Pradesh. Puran is married with Anita and having two children and they are living in Azadpur, Delhi. Jeet Bahadur is married with Rekha and having three children and they are living in Azadpur, Delhi. Ram Bahadur

22.10.2024 22/10/2024 22/10/2024

(Appellant/Claimant) is married with Manju and having three children, Nitesh, Sanya & Sandhya.

15. The Appellant/Claimant has stated that previously he along with his wife Manju and all the three children Nitesh, Sanya & Sandhya, was living in Mukundpur, Delhi but thereafter, his wife Manju along with all the three children Nitesh, Sanya & Sandhya, has shifted to Varanasi, Uttar Pradesh whereas the Appellant/Claimant has shifted to Bhiwani, Haryana where he is living & working as tailor but he visits Jailorwala Bagh, Ashok Vihar 1-2 times a week and stays overnight in the single storey Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar from where his distant relative "Raju doctor" is running a clinic. The Appellant/Claimant has stated that he does not know the name of the father of the said Raju doctor but he (Raju doctor) is running a clinic from the said Jhuggi No. A-82 and the Appellant/Claimant used to stay there as & when he visits Jailorwala Bagh, Ashok Vihar from Bhiwani, Haryana where he is running a tailor shop.

16. The Appellant/Claimant has stated that he along with his brother Jeet Bahadur had jointly sought allotment from DDA against the said Jhuggi No. A-82 and they have also got the survey conducted jointly but their claim has been rejected by the Eligibility Determination Committee on the ground that the said Jhuggi No. A-82 is found to have been used solely for commercial purposes and accordingly aggrieved by the same the Appellant/Claimant has filed the present Appeal No. 59 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.

17. DDA has furnished the survey records along with one video clip of Jhuggi No. A-82. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 14.10.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. A-82 in which from outside the Jhuggi No. A-82 is clearly seen to be a pucca single storey structure and the Appellant/Claimant is seen standing in the gali and a glimpse of a table lying inside that Jhuggi is also seen but no video clip of inside of that Jhuggi No. A-82 is available but the Appellant/Claimant is heard stating that Raju doctor is running a clinic from the said Jhuggi No. A-82 and further, the Appellant/Claimant is seen holding a slate in his hand on which **"A-82 RAM BAHADUR NOT IN LIST G-SHOP"** is seen to have been written.

22.10.2024 22/10/2024

18. It is pointed out that in the video clip prepared by the survey team of DDA, the Appellant/Claimant is heard making a statement that the said Jhuggi No. A-82 is used by Raju doctor for running a clinic and further, the Appellant/Claimant is seen holding a slate in his hand on which **"A-82 RAM BAHADUR NOT IN LIST G-SHOP"** is seen to have been written. This accordingly shows that the Jhuggi No. A-82 is used exclusively for commercial purposes.

19. Furthermore, in the video clip the glimpse of one table is seen lying inside the room. It seems that the Appellant/Claimant has not got the video clip of inside of the Jhuggi prepared because he very well knew that if the video of inside of Jhuggi is prepared then it will fully reveal that it has been used for running a clinic. Furthermore, the statement of the Appellant/Claimant made before the survey team clearly shows his admission on his part that the said Jhuggi No. A-82 is not used for residential purposes by the Appellant/Claimant but it has been used for running a clinic by a doctor. Moreover, it is also pertinent to point out that the statement of the Appellant/Claimant is recorded before us on 14.10.2024 wherein he has stated that his distant relative Raju doctor has been running a clinic from Jhuggi No. A-82 and the Appellant/Claimant used to stay overnight 1-2 times a week as & when he visits Delhi from Bhiwani, Haryana.

20. The Appellant/Claimant has stated that he along with his brother Jeet Bahadur had jointly sought allotment from DDA against the said Jhuggi No. A-82. However, the admission of the Appellant/Claimant is a clincher piece of evidence and it shows that neither he nor his brother Jeet brother is/are living in Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar but this Jhuggi is used for running a clinic by one "Raju doctor". As pointed out above, the Appellant/Claimant has categorically stated that his brother Jeet Bahadur is married with Rekha and having three children and they are living in Azadpur, Delhi and this shows that co- Appellant/Claimant Jeet Bahadur had never lived in Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar. Further, the Appellant/Claimant has also specifically stated that previously he along with his family was living in Mukundpur, Delhi and thereafter, his wife Manju along with all the three children, Nitesh, Sanya & Sandhya had shifted to Varanasi, Uttar Pradesh whereas the Appellant/Claimant had shifted to Bhiwani, Haryana where he is living and running a tailor shop. However, he visits Delhi 1-2 times a week and stays overnight in Jhuggi No. A-82 Jailorwala Bagh, Ashok Vihar from one Raju doctor is running a clinic. This

22.10.2024 Rawat 22/10/2024 24/10/2024

shows that co- Appellant/Claimant Ram Bahadur had also never lived in Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar

21. The Appellant/Claimant has stated that Raju doctor is his distantly related "Jija" (brother-in-law) but it is surprising that the Appellant/Claimant does not know the name of the father of his relative Raju doctor. Furthermore, the Appellant/Claimant has also stated that Raju doctor is having two Jhuggis in Jailorwala Bagh, Ashok Vihar. Raju doctor is living in one of the Jhuggi and he is running clinic from the second Jhuggi. But the Appellant/Claimant has stated that he does not know the number of that Jhuggi in which the said Raju doctor is living. However, the Appellant/Claimant has stated that the said Raju doctor is running his clinic from the second Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar. It is surprising that the said Raju Doctor has not sought allotment from DDA against Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar but the Appellant/Claimant Ram Bahadur along with his brother Jeet Bahadur had sought allotment from DDA inspite of the fact that neither Jeet Bahadur not Ram Bahadur was living there. The Appellant/Claimant has categorically stated that his brother Jeet Bahadur along with his family is living in Azadpur, Delhi whereas the present Appellant/Claimant was previously in Mukundpur, Delhi and now at present he is living in Bhiwani, Haryana and he had never lived in Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar. Furthermore, the factum of the Appellant/Claimant staying overnight 1-2 times in a week in the said Jhuggi No. A-82 ipso facto does not show that the Appellant/Claimant is living there because the material placed on file shows that the said single storey Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar is primarily used for a running a clinic by Raju doctor. The fact cannot be lost sight that the said Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar is used exclusively for commercial purposes as clinic by the said Raju Doctor. This shows that the Appellant/Claimant is not eligible to claim allotment from DDA as per the policy guidelines issued by DDA because the said Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar is exclusively used for commercial purpose.

22. As already pointed out above, condition contained in Clause 1 (8) & (9) of Part–B of DDA policy runs as under: -

> *"8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose."*
>
> *"9. In case, the jhuggi being used for both residential and commercial purposes can*

22.10.2024 Rawat 22/10/2024 22/10/2024

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."

23. The material placed on file shows that neither the Appellant/Claimant nor his brother Jeet brother is/are living in Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar and this Jhuggi was never used for residential purposes but this Jhuggi is used for running a clinic by one "Raju doctor". Thus EDC has rightly found that on the cutoff date of 01.01.2015 the Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar was exclusively used for commercial purposes and accordingly, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

24. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant on other parameters also as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar as per the policy guidelines issued by DDA.

25. The Appellant/Claimant has tendered two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C) and Voter List of the year 2014 (Annexure-F) in support of his claim.

26. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) is bearing number JPF 0731034 and it has been issued on 18.08.2002, much prior to the cutoff date 01.01.2015 but this Voter ID Card No. JPF0731034 (Annexure-A) has been issued on the address of Jhuggi No. A-18 not on the address of Jhuggi No. A-82 regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly, this document is not relevant.

22.10.2024 22/10/2024 22/10/2024

27. It is pointed out that the Aadhar Card No. 8420 1948 3986 (Annexure-C) of the Appellant/Claimant has been issued on 16.12.2011. The second Voter ID Card (Annexure-B) is bearing number WHC 1326206 and it has been issued on 18.10.2008, much prior to the cutoff date 01.01.2015. Furthermore, his name appears at Sl. No. 229 in the Voter List of the year 2014 (Annexure-F) in which Voter ID Card is mentioned to be WHC1326206 (Annexure-B). Accordingly, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the Voter Lists of the year 2014 but it is pointed out that all these documents are not material to determine the eligibility of the the Appellant/Claimant because as per our discussion above on the cutoff date of 01.01.2015 the Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar was exclusively used for commercial purposes as clinic by Raju Doctor and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

28. The Appellant/Claimant has tendered Ration Card (Annexure-D), Electricity Bill (Annexure-E) and the Passbook of Post Office (Annexure-G) in support of his claim.

29. It is pointed out that Ration Card No. 077004715432 (Annexure-D) has been issued in favour of his wife Manju and the name of the Appellant/Claimant is mentioned. The Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken electricity connection on 17.12.2009. The Passbook of Post Office (Annexure-G) shows that the Appellant/Claimant had opened the account on 25.08.2008. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above on the cutoff date of 01.01.2015 the Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar was exclusively used for commercial purposes as clinic by Raju Doctor and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria to get alternative allotment as per the policy guidelines issued by DDA.

30. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ

22.10.2024 22/10/2024 22/10/2024

dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

31. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above on the cutoff date of 01.01.2015 the Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar was exclusively used for commercial purposes as clinic by Raju Doctor and further neither the Appellant/Claimant nor his brother Jeet brother is/are living in Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar and furthermore this Jhuggi was never used for residential purposes but this Jhuggi is used for running a clinic by one "Raju doctor" and accordingly the Appellant/ Claimant is not entitled to get alternative allotment against Jhuggi No. A-82, Jailorwala Bagh, Ashok Vihar as per the policy guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

32. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity or illegality in the impugned order bearing No. 350/Fresh/141 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal No. 59 of 2024 is dismissed being devoid of any merit.

22.10.2024 22/10/2024 22/10/2024

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.

22.10.2024 22/10/2024 24/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 93 of 2024

Date of Institution: 12.07.2024

Date of Order: 23.10.2024

Present: Appellant/ Claimant Man Bhavti W/o Joginder

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. E-4 Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailor Wala site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. E-4 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/216 dated 01.07.2023 to the present

23.10.2024 G Mawat 23/10/2024 23/10/2024

Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 94 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. E-4 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not *Verified / Upper Floor*"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the Jhuggi No. E-4 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Man Bhavati has been recorded before us on 10.10.2024 wherein she has stated that she is married with Joginder and having four children; Mahinder, Junior, Senior & Laxmi. All the children except Senior are married. Laxmi is married with Arvind and she is living in her matrimonial home in Mumbai, Maharashtra. Mahinder is

23.10.2024 23/10/2024 23/10/2024

married with Uma whereas Junior is married with Anju. Her husband Joginder is living in Saudi Arabia for the last 15 years.

9. The Appellant/Claimant has stated that she along with her family was living on rent in the Jhuggi No. N-28/C-127, Wazirpur Industrial Area, Delhi and on 06.11.2020, she had purchased the Jhuggi No. E-4, Jailorwala Bagh from one Munshi S/o Robin for a sale consideration of Rs. 1.5 Lakh as per the Agreement to Sale dated 06.11.2020 (Annexure-J). Accordingly, the entire family had shifted on 06.11.2020 to the Jhuggi No. E-4, Jailorwala Bagh, which is a single storey structure comprising of one room.

10. The Appellant/Claimant has stated that she has sought allotment from DDA against the said single storey Jhuggi No. E-4 but her claim was rejected by Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly claimed allotment against the said single storey Jhuggi No. E-4 and further she is having all the requisite documents issued as per the policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 93 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-J, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. E-4. The video was played before the Appellant/Claimant when her statement was recorded before us on 10.10.2024 wherein she has stated that the video clip pertains to the Jhuggi No. E-4 in which Jhuggi No. E-4 is clearly seen to be closed from outside but only *Kundi* is bolted from outside but it is not locked.

12. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that on the cutoff date of 01.01.2015 she was not living in the said Jhuggi No. E-4, Jailorwala Bagh, regarding which she is claiming allotment from DDA because the said Jhuggi was allegedly purchased by her from one Munshi S/o Robin on 06.11.2020 and accordingly, the Appellant/Claimant had come to occupy the same on 06.11.2020, much after the cutoff date of 01.01.2015. Furthermore, it is settled law that Agreement to Sale does not confer any right, title & interest because in this case no sale deed has been executed. However, the fact remains that the Appellant/Claimant was not living in the Jhuggi No. E-4, Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015. Furthermore, the vendor Munshi S/o Robin,

23.10.2024 Rawat 23/10/2024 23/10/2024

who happened to be living in the Jhuggi No. E-4, Jailorwala Bagh on the cutoff date of 01.01.2015, had not submitted a representation to DDA to claim alternative allotment from DDA against the Jhuggi No. E-4. Furthermore, the Appellant/Claimant has sought allotment from DDA in her individual capacity and not under the previous owner Munshi S/o Robin. Thus the Appellant/Claimant is not eligible to claim alternative allotment from DDA as per the policy/guidelines issued by DDA because she admittedly was not living in the Jhuggi No. E-4, Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015.

13. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. E-4 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 but the Appellant/Claimant along with her family was not living there on the cutoff date of 01.01.2015 because the said Jhuggi was allegedly purchased by her from one Munshi S/o Robin on 06.11.2020, much after the cutoff date of 01.01.2015 and accordingly, the Appellant/Claimant is not eligible to claim allotment from DDA against Jhuggi No. E-4, Jailorwala Bagh, Ashok Vihar as per the policy guidelines issued by DDA.

14. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. E-4 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 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.

23.10.2024 S/Mawat 23/10/2024 Tiwari 23/10/2024

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.

23.10.2024 23/10/2024 23/10/2024

- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

17. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

18. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

19. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015.

23.10.2024 Mawat 23/10/2024 23/10/2024

Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

20. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

21. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

22. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

23. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor

23.10.2024 23/10/2024

cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

24. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

25. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

26. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card"

23.10.2024 S/Rawat 23/10/2024 23/10/2024

has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

27. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

28. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before

23.10.2024 Rawat 23/10/2024 23/10/2024

adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

29. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

30. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

31. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single

23.10.2024 23/10/2024 23/10/2024

bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

32. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

33. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

34. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala

23.10.2024 Rawat 23/10/2024 23/10/2024

Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

35. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

36. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

38. Now in the light of our discussion above, we shall determine the eligibility of the present

23.10.2024 23/10/2024 23/10/2024

Appellant/Claimant as per the policy guidelines issued by DDA.

39. It is pointed out that we have already held that the single storey Jhuggi No. E-4 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 but the Appellant/Claimant along with her family was not living there on the cutoff date of 01.01.2015 because the said Jhuggi was allegedly purchased by her from one Munshi S/o Robin on 06.11.2020, much after the cutoff date of 01.01.2015 and accordingly, the Appellant/Claimant is not eligible to claim allotment from DDA against Jhuggi No. E-4, Jailorwala Bagh, Ashok Vihar as per the policy guidelines issued by DDA. But inspite of that the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

40. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether she is entitled to claim allotment against the single storey Jhuggi No. E-4 as per the policy guidelines issued by DDA.

41. The Appellant/Claimant has tendered her Voter ID Card No. WHC 3659356 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

42. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 3659356 (Annexure-A) and it has been issued on 24.09.2023, much after the cutoff date of 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the years from 2012 to 2015 does not arise. Furthermore, the Appellant/Claimant has tendered her Aadhar Card (Annexure-B) bearing No. 4645 7981 2604, which has been issued on 12.10.2011 on the address of the Jhuggi No. E-4, Jailorwala Bagh. However, the Appellant/Claimant has stated that previously, the Aadhar Card was issued on the last address where she was living on rent and after purchasing the Jhuggi No. E-4, Jailorwala Bagh, she had got the address changed but the original date of issuance has still been mentioned in the Aadhar Card.

23.10.2024 Rawat 23/10/2024 23/10/2024

43. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. E-4, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

44. The Appellant/Claimant has also tendered the Ration Card (Annexure-D), Voter ID Card No. CQB 0764142 (Annexure-E), Aadhar Card (Annexure-F) & PAN Card (Annexure-G) of her husband Joginder, Electricity Bill (Annexure-H) and Passbook of Indian Overseas Bank (Annexure-I) in support of her claim.

45. It is pointed out that the Ration Card (Annexure-D) is bearing No. 077004436791 and it has been issued in favour of Inavati, who is wife of the previous owner Munshi and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant. It is pointed out that the Voter ID Card No. CQB 0764142 (Annexure-E) of her husband Joginder has been issued on 10.02.2010 on the address of Wazirpur Industrial Area, where the Appellant/Claimant and her family was previously living on rent and accordingly, this document is also not relevant. The Aadhar Card (Annexure-F) of her husband Joginder has been issued on the address of Village Rampur, District Azamgarh, Uttar Pradesh and accordingly, this document is also not relevant. The Electricity Bill (Annexure-H) shows that the electricity connection has been taken by the Appellant/Claimant on 24.02.2010 and the Passbook of Indian Overseas Bank (Annexure-I) shows that the Appellant/Claimant has opened the account on 10.09.2013. It is pointed out that in both documents, Annexure-H & Annexure-I, the address is mentioned to be E-4, Jailorwala Bagh. However, the Appellant/Claimant has stated that previously, these documents were issued on the last address where she was living on rent and after purchasing the Jhuggi No. E-4, Jailorwala Bagh she had got the address changed but the original date of issuance has still been mentioned in these documents and accordingly, these documents are also not relevant to determine the eligibility of the Appellant/Claimant. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. E-4 regarding which the

23.10.2024 23/10/2024

Appellant/Claimant is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

47. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the single storey Jhuggi No. E-4 has been found to be in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 but the Appellant/Claimant along with her family was not living there on the cutoff date of 01.01.2015 because the said Jhuggi was allegedly purchased by her from one Munshi S/o Robin on 06.11.2020, much after the cutoff date of 01.01.2015 and accordingly, the Appellant/Claimant is not eligible to claim allotment from DDA against Jhuggi No. E-4, Jailorwala Bagh, Ashok Vihar as per the policy guidelines issued by DDA and further the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.E-4 Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the

23.10.2024 S. Rawat 23/10/2024 23/10/2024

Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-J, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

48. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/216 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

49. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

23.10.2024 23/10/2024 23/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 260 of 2024

Date of Institution: 10.05.2024

Date of Order: 23.10.2024

Present: Appellant/ Claimant Mohd. Sadik S/o Sabir

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. F-116, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. F-116 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-108/71/G dated

23.10.2024 23/10/2024 23/10/2024

01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 260 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 11.10.2024. He has also tendered documents, Annexure-A to Annexure-E, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-116 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. F-116 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Mohammad Sadik has been recorded before us on 11.10.2024 wherein he has stated that his parents, Sabir & Jaunda Khatun, are having two sons; Md. Samid & Mohammad Sadik and seven daughters; Gulshan, Roshan, Shabnam, Zaira, Zainab, Sumayya & Sugra. All the children except Md. Samid, Sumayya & Sugra are

23.10.2024 23/10/2024 23/10/2024

married. Gulshan is married with Shakil and she is living in her matrimonial home in Ahmedabad, Gujarat. Roshan is married with Shajad, Shabnam is married with Rais and Zaira is married with Naim and all the three daughters, Roshan, Shabnam & Zaira, are living in their respective matrimonial homes in Bijnour, Uttar Pradesh. Zainab is married with Ali Sher and she is living in her matrimonial home in Pune, Maharashtra. Md. Sadik (Appellant/Claimant) is married with Anisha is having three children; Saina, Chahat & Mannat.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi No. F-116, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that he along with his wife Anisha and all the children; Saina, Chahat & Mannat, as well as his parents; Sabir & Jainuda Khatun, and unmarried siblings; Md. Samid, Sumayya & Sugra, is living in the said double storey Jhuggi No. F-116. The Appellant/Claimant has sought alternative allotment from DDA against the double storey Jhuggi No. F-116 but his claim has been rejected by Eligibility Determination Committee on the ground that he was found to have claimed allotment against the first floor and his Voter Id Card could not be verified in spite of the fact that he has admittedly claimed allotment against the said double storey Jhuggi No. F-116 and further he is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, he has filed the present Appeal No. 260 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. F-116. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. F-116 on 19.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

23-10-2024 23/10/2024

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. F-116. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 11.10.2024 wherein he has stated that from outside the said Jhuggi is clearly seen to be a pucca double storey Jhuggi and an iron ladder is also seen and further the Appellant/Claimant is seen and getting the survey conducted and further, his room & kitchen on the ground floor are also seen and further, he is seen holding a slate in his hand on which **"F-116 MD. SADIK G+1"** is seen to have been written.

13. The admission of the Appellant/Claimant is a clincher piece of evidence and there is nothing to disbelieve his statement on the material aspect of the case about the existence of the double storey Jhuggi No. F-116. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. F-116 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is living in the said double storey Jhuggi No. F-116 and is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. F-116 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and further the Appellant/Claimant along with his family was & is still living in the said double storey Jhuggi No. F-116 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. F-116 as per the policy guidelines issued by DDA.

16. The Appellant/Claimant has stated that his claim has been wrongly rejected by DDA. He 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.

23.10.2024 S/Rawat 23/10/2024 23/10/2024

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-108/71.G dated 01.07.2023.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the

23.10.2024 23/10/2024 23/10/2024

Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

19. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi

23.10.2024 23/10/2024

or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

20. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

22. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

23. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card,

23.10.2024 23/10/2024 23/10/2024

will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

26. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a

23.10.2024 23/10/2024 23/10/2024

stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

29. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for

23.10.2024 23/10/2024 23/10/2024

obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

30. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

31. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of

23-10-2024 23/10/2024 23/10/2024

evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

23.10.2024 23/10/2024 23/10/2024

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned

23.10.2024 G/Rawat 23/10/2024 23/10/2024

Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the Jhuggi No. F-116 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living in the said double storey Jhuggi No. F-116 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

23.10.2024 23/10/2024 23/10/2024

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. F-116 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2157237 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

44. It is pointed out that the Appellant/Claimant has tendered his Voter ID Card bearing number WHC 2157237 (Annexure-A) and it has been issued on 07.08.2023, much after to the cutoff date of 01.01.2015 and accordingly the question of his name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. Further, his Aadhar Card (Annexure-B) is bearing No. 3520 6474 9697 and it has been issued on 16.09.2016, much after the cutoff date of 01.01.2015.

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. F-116 regarding which he has been claiming allotment from DDA and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/Claimant has also tendered the Electricity Bill (Annexure-D) and the Passbook of Indian Bank (Annexure-E) in support of his claim.

47. It is pointed out that the Electricity Bill (Annexure-D) shows that the Appellant/Claimant has taken the electricity connection on 16.04.2015, much after to the cutoff date of 01.01.2015. Further, the Passbook of Indian Bank (Annexure-E) which shows that the Appellant/Claimant has opened the account on 17.11.2020, much after to the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not

23.10.2024 23/10/2024 23/10/2024

having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-116, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-116, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-E, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not

23.10.2024 Mawat 23/10/2024 22/10/2024

fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-108/71.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

23.10.2024 23/10/2024 23/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 150 of 2024

Date of Institution: 17.07.2023

Date of Order: 24.10.2024

Present: Appellant/ Claimant Vishwanath S/o Ram Dulare

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. H-32, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-32 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No.

24.10.2024 24/10/2024 24/10/2024

350-201/350/201/67.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 150 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 09.07.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q, in support of his claim. In view of the letter bearing U.O. NO. F2(ISR)/AA/PMAY/37 dated 03.06.2024, whereby the observations made by Principal Commissioner (Housing) and worthy Vice Chairman, DDA has been annexed, the representatives of PMAY-ISR Department of DDA has also examined Sh. Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 10.10.2024. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Appellant / Claimant's double storey Jhuggi bearing No. H-32 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and

24.10.2024 Rawat 24/10/2024 24/10/2024

whether he is entitled to claim allotment against the double storey Jhuggi No. H-32 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Vishawanath has been recorded before us on 09.07.2024 wherein he has stated that he is married with Devmati and having one son, Pradip, and two daughters, Rajshri & Raj Kumari. Pradip is unmarried. Rajshri and Raj Kumari are married and they are living in their respective matrimonial homes in Sultanpur, Uttar Pradesh.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and a bamboo ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that he along with his family is living in the said double storey Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. H-32 but his claim has been rejected by the Eligibility Determination Committee on the grounds that he has been found to have claimed allotment from DDA against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has admittedly claimed allotment against the said double storey Jhuggi No. H-32 and further he is having all the requisite documents as per the policy guidelines issued by DDA and aggrieved by the same he has filed the present Appeal No. 150 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-R, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. It is pointed out that DDA has also examined Dilshad Ahemad, Assistant Director, and his statement has also been recorded before us on 10.10.2024 wherein he has stated that the Appellant/Claimant Vishwanath has sought alternative allotment form DDA against the double storey Jhuggi No. H-32, Jailorwala Bagh but his claim for alternative allotment was rejected by Eligibility Determination Committee on the grounds that the Voter ID Card of the Appellant/ Claimant could not be verified. The Rejection order was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-O) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified/upper floor"**. Aggrieved by the same, the Appeal No. 150 of 2024 has been filed by the present Appellant/ Claimant.

12. DDA has furnished survey records along with one video clip of Jhuggi No. H-32. As per

24.10.2024 24/10/2024 24/10/2024

survey records (Annexure-R) the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-32 on 12.03.2021 on the ground floor of the said Jhuggi and his photograph (Annexure-P) while standing in front of his Jhuggi is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant and the details of his family members is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

13. DDA has furnished the survey records along with one video clip of Jhuggi No. H-32. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 09.07.2024 wherein the Appellant/Claimant has stated that the video clip pertains to the Jhuggi No. H-32 in which from outside the Jhuggi is clearly seen to be a double storey pucca structure and a bamboo ladder is also seen and he is also heard stating that both the floor are occupied by his family members for residential purpose and further the Appellant/Claimant is seen & getting the survey conducted and his room & kitchen are seen and furthermore, he is also seen holding a slate in his hand on which **"H-32 VISHWANATH G+1"** is seen to have been written.

14. Furthermore, Dilshad Ahemad, Assistant Director, has also admitted the correctness & genuineness of the survey records as well as the video clips pertaining to Jhuggi H-32, which were prepared by the survey team of DDA and also played before him when his statement was recorded before us on 10.10.2024 and from outside the said Jhuggi No. H-32 is seen. The Appellant/Claimant is stating that both the floors are occupied by his family members for residential purposes and further the Appellant/Claimant is seen & getting the survey conducted and his room & kitchen are seen and furthermore, he is also seen holding a slate in his hand on which **"H-32 VISHWANATH G+1"** is seen to have been written.

15. It is pertinent to point out that the photograph (Annexure-P) of the Appellant/Claimant, while standing in front of his Jhuggi, taken by the survey team of DDA at the time of survey, which is annexed with the survey records (Annexure-R) shows that on the door of the Jhuggi the Survey Number of Jhuggi is written to be "350/201/67.G". Furthermore, in the video clip prepared by the survey team of DDA the Appellant/Claimant is also seen holding a slate in his hand on which **"H-32 VISHWANATH G+1"** is seen to have been written and he is also heard stating that both the floors are occupied by his family members for residential purposes. This corroborates the statement of the Appellant/Claimant that Jhuggi No. H-32

24.10.2024 24/10/2024 24/10/2024

is a double storey structure and both the floors are part of same dwelling unit, which is used by the Appellant/Claimant & his family for residential purposes. Furthermore, the Appellant/Claimant along with his family is living separately & independently in the said double storey Jhuggi No. H-32 and regarding that the Appellant/Claimant has sought allotment from DDA but his claim has been rejected by the Eligibility Determination Committee on the grounds **"Voter Card Not verified/upper floor"** but the existence of the Jhuggi of the Appellant/Claimant is not disputed by DDA and aggrieved by the same he has filed the present Appeal No. 150 of 2024 before the Appellate Authority for redressal.

REJECTION OF REPRESENTATION BY EDC VIDE ORDER DATED 29.08.2022

16. Now we shall appraise the material placed on file to show as to how the EDC had proceeded to deal with the claim and more particularly as to whether it was swayed by irrelevant matter or it has determined the claim of the Appellant/ Claimant fairly & independently.

17. It is not disputed that the claim of the Appellant/ Claimant was placed before the Eligibility Determination Committee (hereinafter called EDC). It is pertinent to point out that the claim of the Appellant/ Claimant was rejected by EDC on 29.08.2022 and the Nodal Officer, Kathputli Colony, duly communicated its order bearing No. 350-201/350/201/67.G dated 01.07.2023 (Annexure-O) to the present Appellant/Claimant and the EDC Note dated 29.08.2022 (Annexure-Q) is reproduced for better understanding of the facts and the grounds on which the claim of the present Appellant/ Claimant was rejected, as under: -

EDC Note dated 29.08.2022 (Annexure-Q)

"1. While examining the present case for determination of eligibility, it was observed that there was some deficiency in the requisite documents as per policy guidelines. In this regard, a Public Notice was issued on 14.03.2022 for organized a camp from 01.06.2022 to 15.06.2022 at DDA site office Jailor wala site office, Ashok Vihar, Delhi-52. wherein to the applicant/ claimant to give him/her an opportunity for submission of required documents. The applicant failed to submit requisite documents in spite of opportunity. As per survey record, the applicant jhuggi existed on Ground and the policy guidelines for alternate allotment in cases of Ground/Upper floor is as under.

2. As per policy guidelines, Part –B The eligibility criteria for allotment of alternative dwelling units for rehabilitation and relocation of JJ dwellers would be as under: - The name of JJ dwellers must appear in at least one of the voter lists of the year's 2012, 2013, 2014, 2015 (Prior to 01.01.2015) and also in the year of survey, for the purpose of rehabilitation. However, name of the applicant appears in voter lists of year 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey, the voter card number JPF 0730515 submitted by the applicant not found valid.

24.10.2024 24/10/2024 24/10/2024

3. The applicant/claimant has failed to submit a valid voter ID. card; Hence, the applicant/claimant does not fulfill the eligibility criteria. The applicant/claimant is found ineligible for alternative allotment."

(Remarks - The grammar & formation of the sentences are ignored by this Appellate Authority in reproducing the EDC Note dated 29.08.2022)

18. The survey records placed on file shows that the double storey Jhuggi No. H-32 of the Appellant/ Claimant was found to exist but his claim was rejected by EDC on 29.08.2022 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-O) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-O) because had his Jhuggi been found on the upper floor then EDC would have considered as to whether he was having a separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for the upper floor. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the double storey Jhuggi No. H-32. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-O) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 29.08.2022 (Annexure-Q) it has been mentioned that the Voter ID Card No. JPF 0730515 was not a valid document and further his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey and further in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that he was not having a separate Ration Card. The bare perusal of the EDC Note dated dated 29.08.2022 (Annexure-Q) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-O) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated dated 29.08.2022 (Annexure-Q). However, the other ground that the voter ID Card of the Appellant/ Claimant was found not to have been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-

24.10.2024 Rawat 24/10/2024 24/10/2024

O) needs to be determined by this Appellate Authority. Here it is pertinent to point that the remarks given in the EDC Note dated dated 29.08.2022 (Annexure-Q) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0730515 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. Accordingly, we shall appraise the material placed on file to determine whether the Voter ID Card No. JPF 0730515 of the Appellant/ Claimant is a valid document or not in the later part of this order.

19. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. H-32 as per the policy guidelines issued by DDA.

20. As per our discussion above, the bare perusal of the EDC Note dated 29.08.2022 (Annexure-Q) shows that it is no where disputed by DDA as far as the existence of the double storey Jhuggi No. H-32 of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently and using it for residential purposes is concerned but his claim was rejected on the grounds that the Voter ID Card No. JPF 0730515 of the Appellant/ Claimant could not be verified inspite of the fact that his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.01.2015) but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit comprising of the double storey Jhuggi No. H-32 except that he was allegedly not having all the

24.10.2024 Rawat 24/10/2024 24/10/2024

requisite documents.

21. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photograph/video clip, about the existence of the double storey Jhuggi No. H-32. Thus the statement of the Appellant/Claimant as well as the survey records/ photograph/video clips has duly proved that the double storey Jhuggi No. H-32 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is living in the said double storey Jhuggi No. H-32 and the same has been used by him for residential purposes.

22. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-32 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living in the said double storey storey Jhuggi No. H-32 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

23. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the said double storey Jhuggi No. H-32 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-R, in support of his claim and prayed that DDA be directed to make allotment in his favour.

25. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor,

24.10.2024 Rawat 24/10/2024 24/10/2024

the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-201/350/201/67.G dated 01.07.2023.

26. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<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

24.10.2024 24/10/2024

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."

27. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

24.10.2024 Rawat 24/10/2024 24/10/2024

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

28. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

29. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

30. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

31. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

32. Thus the legal position which emerges out is that for claiming alternative allotment against

24.10.2024 Rawat 24/10/2024 24/10/2024

the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

33. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

34. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect

24.10.2024 S/Rawat 24/10/2024 24/10/24

with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

35. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

36. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

37. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure

24.10.2024 24/10/2024 24/10/2024

that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

38. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

39. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration

24.10.2024 Mawat 24/10/2024 24/10/2024

card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

40. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

41. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

42. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High

24.10.2024 Rawat 24/10/2024

Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

43. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

44. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

45. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor

24.10.2024 Rawat 24/10/2024

and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

46. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

47. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

48. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

49. It is pointed out that we have already held that the double storey Jhuggi No. H-32 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

50. It is also pointed out that we have already held that the survey records placed on file shows that the double storey Jhuggi No. H-32 of the Appellant/ Claimant was found to exist but

24.10.2024 S/Mawat 24/10/2024 24/10/24

his claim was rejected by EDC on 29.08.2022 and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-O) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** However, the ground of rejection "Upper Floor" seems to be wrongly & erroneously mentioned in the Rejection Order dated 01.07.2023 (Annexure-O) because had his Jhuggi been found on the upper floor then EDC would have considered as to whether he was having a separate Ration Card because the policy guidelines issued by DDA makes separate Ration Card a mandatory document for the upper floor. Furthermore, the Appellant/ Claimant has sought allotment from DDA against the double storey Jhuggi No. H-32. There is no doubt that EDC has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-O) whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** in the said rejection order under challenge before us but as mentioned above in the EDC Note dated 29.08.2022 (Annexure-Q) it has been mentioned that the Voter ID Card No. JPF 0730515 was not a valid document and further his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in year of survey and further in the said EDC Note it is no where mentioned that the Appellant/ Claimant has been found to have claimed allotment against the upper floor and also that he was not having a separate Ration Card. The bare perusal of the EDC Note dated 29.08.2022 (Annexure-Q) shows that DDA has not disputed about the existence of the Jhuggi of the Appellant/ Claimant and accordingly the ground of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-O) is not sustainable being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 29.08.2022 (Annexure-Q). However, the other ground that the voter ID Card of the Appellant/ Claimant was found to have not been verified as reflected in the Rejection Order dated 01.07.2023 (Annexure-O) needs to be determined by this Appellate Authority. Here it is pertinent to point that the remarks given in the EDC Note dated 29.08.2022 (Annexure-Q) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0730515 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to

24.10.2024 Mawat 24/10/2024

01.01.2015) but not found in year of survey. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card No. JPF 0730515 on the cutoff date of 01.01.2015 and further whether his name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by this Appellate Authority.

51. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. H-32 as per the policy guidelines issued by DDA.

52. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), the Letter F. No. AERO/AC-17/2024/198 dated 14.06.2024 (Annexure-K) of AERO, AC-17, Wazirpur, Voter List of the year 2008 (Annexure-L), Voter List of the year 2012 (Annexure-M) and Voter List of the year 2013 (Annexure-N) in support of his claim.

53. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered documents, Annexure-A to Annexure-R, in support of his claim. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 0730515 and it has been issued on 16.08.2002. The second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 3660107. The Appellant/Claimant has tendered Aadhar Card No. 3930 9005 2090 (Annexure-C), which has been issued on 29.01.2020. Further, all the documents (Annexure-A to Annexure-C) have been issued on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. The name of the Appellant/Claimant appears at Sl. No. 237 in the Voter List of the year 2008 (Annexure-L),

24.10.2024 Mawat 24/10/2024 24/10/2024

at Sl. No. 216 in the Voter List of the year 2012 (Annexure-M) and at Sl. No. 2016 in the Voter List of the year 2013 (Annexure-N) and further in these Voter Lists (Annexure-L to Annexure-N) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0730515 (Annexure-A). Moreover, in all of the documents, (Annexure-A to Annexure-C and Annexure-L to Annexure-N) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. The name of the applicant appears in the voter list of the years 2012 and 2013, but does not exist in the lists of 2014 and 2015 (prior to 01.01.2015), and also no found in the year of survey, i.e., 2021.

54. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 0730515 and it has been issued on 16.08.2002, much prior to the cutoff date 01.01.2015. The second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 3660107 and it has been issued on 24.08.2023. The Appellant/Claimant has also tendered his Aadhar Card No. 3930 9005 2090 (Annexure-C), which has been issued on 29.01.2020. Further, all the documents (Annexure-A to Annexure-C) have been issued on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA.

55. The first Voter ID Card No. JPF 0730515 (Annexure-A) of the Appellant/Claimant has been issued on 16.08.2002, much prior to the cutoff date 01.01.2015. Further, the Letter F. No. AERO/AC-17/2024/198 dated 14.06.2024 (Annexure-K) of AERO, AC-17, Wazirpur also shows that Voter ID Card No. JPF 0730515 (Annexure-A) of the Appellant/Claimant is a valid document and furthermore, this Voter ID Card No. JPF 0730515 (Annexure-A) is not reflected in the Voter List of the year 2014 & 2015 but it is duly reflected in the Voter List of the year 2012 & 2013 as per the records maintained by the Election Commission. Moreover, the name of the Appellant/Claimant appears at Sl. No. 216 in the Voter List of the year 2012 (Annexure-M) and at Sl. No. 2016 in the Voter List of the year 2013 (Annexure-N).

56. The Appellant/Claimant has tendered his Voter ID Card No. JPF 0730515 dated 16.08.2002 (Annexure-A) and the Letter F. No. AERO/AC-17/2024/198 dated 14.06.2024 (Annexure-K) of AERO, AC-17, Wazirpur shows that the Voter ID Card No. JPF 0730515 (Annexure-A) of the Appellant/Claimant is a valid document and it is duly reflected in the Voter List of the

24.10.2024 24/10/2024 24/10/2024

year 2012 & 2013. Furthermore, the name of the Appellant/Claimant appears at Sl. No. 216 in the Voter List of the year 2012 (Annexure-M) and at Sl. No. 2016 in the Voter List of the year 2013 (Annexure-N).

57. In addition to that the Appellant/Claimant has also tendered the Voter List of the year 2008 (Annexure-L) in support of his claim. Moreover, the name of the Appellant/Claimant appears at Sl. No. 237 in the Voter List of the year 2008 (Annexure-L) in addition to his name appearing at Sl. No. 216 in the Voter List of the year 2012 (Annexure-M) and at Sl. No. 2016 in the Voter List of the year 2013 (Annexure-N) and further in these Voter Lists (Annexure-L to Annexure-N) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0730515 (Annexure-A) and furthermore, in all of the documents, (Annexure-A to Annexure-C and Annexure-L to Annexure-N) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA.

58. The Voter List of the year 2008 (Annexure-L), Voter List of the year 2012 (Annexure-M) and Voter List of the year 2013 (Annexure-N) shows that the Appellant/Claimant has been continuously living in Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. Furthermore, the factum of issuance of two Voter ID Cards also shows that the Appellant/Claimant has been continuously living in Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar from 16.08.2002 (the date of issuance of the first Voter ID Card No. JPF 0730515 - Annexure-A) to 24.08.2023 (the date of issuance of the second second Voter ID Card No. WHC 3660107 - Annexure-B) and even till today.

59. As already pointed out above in the EDC Note dated 29.08.2022 (Annexure-Q) it has been mentioned that the Voter ID Card No. JPF 0730515 was not found to be a valid document even though his name was found to appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in the year of survey. Here it is pertinent to point that the remarks given in the EDC Note dated 29.08.2022 (Annexure-Q) are self-contradictory because on the one hand it is mentioned that the Voter ID Card No. JPF 0730515 of the Appellant/ Claimant was not found to be valid document but on the other hand it is mentioned that the name of the Appellant/ Claimant appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01.0-1.2015) but not found in the year of survey. It is pertinent to point out that the Letter F. No. AERO/AC-17/2024/198 dated 14.06.2024 (Annexure-K) of AERO, AC-17, Wazirpur shows that Voter ID Card No. JPF

24.10.2024 Rawat 24/10/2024 24/10/2024

0730515 (Annexure-A) of the Appellant/ Claimant is a valid document as it has been verified as per the records of the Election Commission and further, this Voter ID Card No. JPF 0730515 (Annexure-A) has been reflected in the Voter List of the years 2008, 2012 and 2013 (Annexure-L to Annexure-N). Accordingly, the Voter ID Card No. JPF 0730515 of the Appellant/ Claimant having not found to be a valid document as reflected in the EDC Note dated 29.08.2022 (Annexure-Q) and in the Rejection Order dated 01.07.2023 (Annexure-O) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority. Accordingly, we have no hesitation in holding that the Voter ID Card No. JPF 0730515 (Annexure-A) of the Appellant/ Claimant is a valid document but this fact was completely ignored by the EDC.

60. It is also pointed out that the Appellant/Claimant has tendered his second Voter ID Card No. WHC 3660107 dated 24.08.2023 (Annexure-B), much after the cutoff date of 01.01.2015 and further this has been issued on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Appellant/Claimant has stated that the Election Commission had withdrawn the "Black & White series" and instead issued "coloured series" and consequently the Voter ID Card No. JPF 0730515 dated 16.08.2002 (Annexure-A) of the "Black & White series" was withdrawn and in its place the second Voter ID Card No. WHC 3660107 dated 24.08.2023 (Annexure-B) of the "coloured series" was issued in his favour.

61. There is nothing to disbelieve the Appellant/Claimant about the reasons for issuance of the second Voter ID card No. WHC 3660107 dated 24.08.2023 (Annexure-B) when he was already having the first Voter ID Card No. JPF 07305 15 dated 16.08.2002 (Annexure-A). Moreover, the Appellant/Claimant has nothing to do about the issuance of the second Voter ID card No. WHC 3660107 dated 24.08.2023 (Annexure-B) in place of his first Voter ID Card No. JPF 0730515 dated 16.08.2002 (Annexure-A) by the Election Commission when the Election Commission had withdrawn the "Black & White series" and instead issued "coloured series". The Appellant/Claimant cannot be denied his right to claim alternative allotment from DDA simply because he happened to be having two Voter ID Cards especially when he had reasonably explained the reasons for having two Voter ID Cards at different point of time and further when the first Voter ID Card No. JPF 0730515 dated 16.08.2002 (Annexure-A) has been found to be a valid document and had been used to cast vote in the years 2008, 2012 & 2013 and furthermore, the validity of the second Voter ID

24.10.2024 24/10/2024 24/10/2024

card No. WHC 3660107 dated 24.08.2023 (Annexure-B) has not been challenged by DDA. In view of the matter the reasons for having two Voter ID Cards (Annexure-A & Annexure-B) by the Appellant/Claimant has been well explained by him. On the other hand, the factum of having two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar from 16.08.2002 (the date of issuance of the first Voter ID Card No. JPF 0730515 - Annexure-A) to 24.08.2023 (the date of issuance of the second second Voter ID Card No. WHC 3660107 - Annexure-B) and even till today.

62. A per our discussion above, DDA has not disputed about the existence of the double storey Jhuggi of the Appellant/Claimant bearing Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar but the claim of the present Appellant/Claimant was rejected by the EDC and the rejection order was communicated to him in which the reason for rejection is mentioned to be **"Voter ID not verified/upper floor"** and further the grounds of the Appellant/ Claimant having found to have claimed allotment against the upper floor as reflected in the Rejection Order dated 01.07.2023 (Annexure-O) has already been held not sustainable by this Appellate Authority being erroneous, wrong and against the facts found by the EDC as reflected in the EDC Note dated 29.08.2022 (Annexure-Q). It is also pointed out that the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card. As pointed out above, the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) of the Appellant/Claimant is bearing number JPF 0730515 and it has been issued on 16.08.2002, much prior to the cutoff date 01.01.2015 whereas the second Voter ID Card (Annexure-B) of the Appellant/Claimant is bearing number WHC 3660107 and it has been issued on 24.08.2023 and DDA has not challenged the validity of this Voter ID Card. Further, the Appellant/Claimant has explained the reasons for having two Voter ID Cards at different point of time. The Appellant/Claimant has tendered Aadhar Card No. 3930 9005 2090 (Annexure-C), which has been issued on 29.01.2020. Further, all the documents (Annexure-A to Annexure-C) have been issued on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. On the other hand, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar from 16.08.2002 (the date of issuance of the first Voter ID Card No. JPF 0730515 - Annexure-A) to 24.08.2023

24.10.2024 Rawat 24/10/2024 24/10/2024

(the date of issuance of the second second Voter ID Card No. WHC 3660107 - Annexure-B) and even till today. Furthermore, the Letter F. No. AERO/AC-17/2024/198 dated 14.06.2024 (Annexure-K) of AERO, AC-17, Wazirpur also shows that Voter ID Card No. JPF 0730515 (Annexure-A) of the Appellant/Claimant is a valid document and further, this Voter ID Card No. JPF 0730515 (Annexure-A) even though it is not reflected in the Voter List of the year 2014 & 2015 but it is duly reflected in the Voter List of the year 2012 & 2013 as per the records maintained by the Election Commission. Moreover, the name of the Appellant/Claimant appears at Sl. No. 237 in the Voter List of the year 2008 (Annexure-L), at Sl. No. 216 in the Voter List of the year 2012 (Annexure-M) and at Sl. No. 2016 in the Voter List of the year 2013 (Annexure-N) and further in these Voter Lists (Annexure-L to Annexure-N) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0730515 (Annexure-A) and moreover, in all of the documents, (Annexure-A, Annexure-C and Annexure-L to Annexure-N) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA.

63. As per our discussion above, the material placed on file shows that the Voter ID Card No. JPF 0730515 dated 16.08.2002 (Annexure-A) is a valid document and accordingly facts recorded in the EDC Note dated 29.08.2022 (Annexure-Q) that the "Voter ID Card No. JPF 0730515" of the Appellant/ Claimant was not found valid and further the ground that the Voter ID Card of the Appellant/ Claimant having found "Not Valid" in the Rejection Order dated 01.07.2023 (Annexure-O) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2008, 2012 & 2013.

64. Now the moot question is whether the claim of the Appellant/Claimant is liable to be rejected solely because his name does not appear in the voter list of 2014, 2015 (prior to 01.0-1.2015) & in the year of survey, i.e., 2021 (because as per the survey records placed on file survey/videography was conducted on 12.03.2021) even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in the voter list of the year's 2008, 2012 & 2013.

65. On this aspect it is pointed out that Voter Lists are not revised every year but under Section

24.10.2024 24/10/2024 24/10/2024

21 of the Representation of the People Act, 1951 it is revised

(i) before each general election to the House of People or

(ii) to the Assembly of a State or

(iii) before bye-election or

(iv) in any year if such revision has been directed by the Election Commission.

66. Therefore, the reasons for not tendering the Voter List of the years 2014, 2015 (prior to 01.01.2015) & 2021 is well explained in the present case. Thus the Appellant/Claimant cannot be penalized for not having Voter List of the years 2014, 2015 (prior to 01.01.2015) and 2021 (year of survey) when it was not prepared/ available with the Election Commission.

67. It is pointed out that the Voter ID card is issued when any citizen attains the age of 18 years. Therefore, if a dweller, as the Appellant/Claimant of the present case, attains 18 years of age and he/she obtains the first Voter ID Card on 16.08.2002, before the cutoff date of 01.01.2015 and the second Voter ID Card on 24.08.2023 then he/she cannot be disallowed alternative allotment simply because even though his/her name appears in the voter list of the year's 2008, 2012 & 2013 but their name happened to be not appearing in the Voter List of the year 2014, 2015 (prior to 01.01.2015) and 2021 (year of survey). Therefore, this narrow technical approach will make the possession of Voter ID Card on the cutoff date of 01.01.2015 a mere formality with no right attached to it thereby resulting into miscarriage of justice because the claim of eligible dwellers would be thrown on the ground that they do not possess the Voter list of the year 2014, 2015 (prior to 01.0-1.2015) & 2021 even though they possess all the relevant documents, including a valid Voter Id Card on the cutoff date of 01.01.2015 and further their name appears in the voter list of the year's 2008, 2012, & 2013 and further all these documents in unequivocal terms shows that they have been continuing living in the Jhuggi since long and more specifically on the cutoff date of 01.01.2015. The correct interpretation of the policy guidelines issued by DDA by taking holistic & realistic view to determine the eligibility and our endeavor should be to find out whether there are other cogent & material supporting documents to show that the dweller was in actual physical possession of the Jhuggi regarding which he is claiming allotment from DDA on the cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. But as already pointed out above, the Appellant/Claimant cannot be penalized for not having

24.10.2024 24/10/2024

Voter List of the years 2014, 2015 (prior to 01.0-1.2015) and 2021 (year of survey) when it was not prepared/ available with the Election Commission. Therefore, the fact that the name of the Appellant/Claimant does not appear in the voter list of the year 2014, 2015 (prior to 01.01.2015) and 2021 (year of survey) is of no consequence and the claim of the Appellant/Claimant cannot be rejected on this sole ground when the material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/Claimant was having a valid Voter ID Card No. JPF 0730515 dated 16.08.2002 (Annexure-A) and also another valid Voter ID Card No. WHC 3660107 dated 24.08.2023 (Annexure-B), which have been issued on the address of Jhuggi No. H-32 regarding which he is claiming allotment from DDA and further the first Voter ID Card has been issued much prior to the cutoff date of 01.01.2015. As already pointed out above, DDA has not disputed the validity of the Voter ID Card No. WHC 3660107 dated 24.08.2023 (Annexure-B). The Appellant/Claimant is also having the Aadhar Card No. 3930 9005 2090 (Annexure-C), which has also been issued on the address of the Jhuggi No. H-32, Jailorwala Bagh, regarding which he is claiming allotment from DDA. Further, the Letter F. No. AERO/AC-17/2024/198 dated 14.06.2024 (Annexure-K) of AERO, AC-17, Wazirpur also verified that the Voter ID Card No. JPF 0730515 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further, this Voter ID Card No. JPF 0730515 (Annexure-A) has also reflected in the Voter List of the years 2008, 2012 & 2013 (Annexure-L to Annexure-N) as per the records maintained by the Election Commission. Moreover, in all of the documents (Annexure-A to Annexure-C and Annexure-L to Annexure-N) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. Therefore, we have no hesitation in holding that the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-32 regarding which he has been claiming allotment from DDA and further his name also appears in the voter list of the year's 2008, 2012 and 2013.

68. It is also pertinent to point out that the DUSIB policy has been adopted by DDA. The legal question as to whether the claim of JJ dweller is liable to be rejected solely because his name does not appear in Electoral Rolls of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey even though he was having a valid Voter ID Card on the cutoff date of 01.01.2015 and also in spite of the fact that he also possess other documents to corroborate her residence and existence in the concerned Jhuggi Jhopri basti

24.10.2024 Mawat 24/10/2024 24/10/2024

was the matter directly involved in the matter before Hon'ble High Court of Delhi relating to the DUSIB policy, which had been adopted by DDA, and it has been dealt in the judgment of **Udal v. Delhi Urban Shelter Improvement Board and Ors[2] 2017 SCC OnLine Del 9715.**

69. It is pointed out that in Udal's case (supra) the Hon'ble High Court of Delhi has found that the petitioners have produced the documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Card of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy but they could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy. The Hon'ble High court held as under: -

> *"33. .....Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016."*
>
> *"38. Mr. Parvinder Chauhan, ld. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID - cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited*

24.10.2024 Rawat 24/10/2024 24/10/2024

Jhuggi of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the Jhuggi for work. Obviously, the Booth Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls."

"40. We find that as per Clause 2 of PART - B of the R&R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents. In the above cases, the Jhuggi Jhopri dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART - B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015."

70. Therefore, the present appeal is squarely covered by the facts of Udal's case (supra) decided by the Hon'ble High Court of Delhi wherein it has been held that as per Clause 2 of PART-B of the R & R Policy, 2015, it has been mandated that the Jhuggi Jhopri dwellers must possess "any one" of the 12 documents and we cannot give a disjoint reading of Clause 1 (iii) and Clause 2 of PART – B of the policy but the same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1 (iii) and Clause 2 of PART-B of the R & R Policy, 2015.

71. On this aspect it is pertinent to point out that when the Jhuggi of the Appellant/Claimant is found to exist on the cutoff date of 01.01.2015 and he is also found to be having a valid Voter ID Card on the cutoff date of 01.01.2015 and also a Aadhar Card and further he possesses "any one" document out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 then his claim can not be rejected by taking hyper technical view especially when he was having a valid Voter ID Card (Annexure-A) on the cutoff date of 01.01.2015 & another Valid Voter ID Card (Annexure-B), Aadhar Card No. 3930 9005 2090 (Annexure-C) and further his name also appears continuously in the Voter

24.10.2024 24/10/2024 24/10/2024

Lists from the years 2008 and 2012 & 2014 (Annexure-L to Annexure-N) and all the documents have been issued on the address of Jhuggi No. H-32 regarding which he is claiming allotment from DDA and further he as well his family are having documents to show that they have been living in the said Jhuggi much prior to the cutoff date of 01.01.2015.

72. Therefore, we have no hesitation in holding that the material placed on file shows that the Appellant/Claimant was having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in any of the voter list of the year's 2008, 2012 and 2013 and further the reasons for his name having not reflected in the Voter List of the years 2014, 2015 (prior to 01.01.2015) & of the year of survey (2021) has been well explained in this case but all these relevant & material facts were not duly considered by EDC and accordingly the second ground of the Voter ID Card of the Appellant/ Claimant having not found to have verified as reflected in the EDC Note dated 29.08.2022 (Annexure-Q) and also in the Rejection Order dated 01.07.2023 (Annexure-O) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority.

73. Now we shall appraise the material placed on file to determine as to whether there are documents placed on file to shows that the Appellant/Claimant along with his family was living in Jhuggi No. H-32 since long and more particularly on the cutoff date of 01.01.2015 and whether the family members of the Appellant/Claimant have got the documents issued in their favour prior to the cutoff date of 01.01.2015 to lend support to the claim put forward by the Appellant/Claimant.

74. The Appellant/Claimant has also tendered the Passbook of Bank of Baroda (Annexure-E), the Electricity Bill (Annexure-F), Aadhar Card (Annexure-G) of his wife Devmati, two Ration Cards (Annexure-H & Annexure-I) and Report downloaded from internet (Annexure-J) in support of his claim.

75. It is also pertinent to point out that Dilshad Ahemad, Assistant Director, has also stated that the Appellant/Claimant has tendered the documents (Annexure-E to Annexure-J). The Passbook of Bank of Baroda (Annexure-E) shows that the Appellant/Claimant had opened the account on 23.11.2012 on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Electricity Bill (Annexure-F) also shows that the Appellant/Claimant had taken the electricity connection on 05.03.2009 on the address of the Jhuggi No. H-32 regarding. The Aadhar Card No. 9516

24.10.2024 Rawat 24/10/2024 24/10/2024

1801 1644 (Annexure-G) of his wife Devmati has also been issued on the address of the Jhuggi No. H-32 but the date of issuance is not mentioned. The Appellant/Claimant has tendered two Ration Cards (Annexure-H & Annexure-I). The first Ration Card No. BPL53090183 (Annexure-H) has been issued in favour of the Appellant/Claimant and the name of his wife Devmati & other family member is mentioned and further, it has been issued on 05.09.2009. The second Ration Card No. 077002559615 (Annexure-I) has been issued in favour of his wife Devmati and the name of the Appellant/Claimant & other family member are mentioned but the date of issuance is not mentioned. Further, Report downloaded from internet (Annexure-J) shows that Ration Card (Annexure-I) has been approved on 18.11.2014. Furthermore, both the Ration Cards (Annexure-H & Annexure-I) have been issued on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA.

76. It is pointed out that the Passbook of Bank of Baroda (Annexure-E) shows that the Appellant/Claimant had opened the account on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA and further this account has been opened on 23.11.2012, much prior to the cutoff date 01.01.2015. The Electricity Bill (Annexure-F) also shows that the Appellant/Claimant had taken the electricity connection on the address of the Jhuggi No. H-32 regarding which he is claiming allotment from DDA and further, the date of Energisation is given to be 05.03.2009, much prior to the cutoff date 01.01.2015. The Aadhar Card No. 9516 1801 1644 (Annexure-G) of his wife Devmati has also been issued on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA but the date of issuance is not mentioned.

77. Furthermore, the Appellant/Claimant has tendered two Ration Cards (Annexure-H & Annexure-I). The first Ration Card (Annexure-H) is bearing number BPL 53090183 and it has been issued in favour of the Appellant/Claimant and the name of his wife Devmati & other family member is mentioned and further, it has been issued on 05.09.2009, much prior to the cutoff date 01.01.2015. The second Ration Card (Annexure-I) is bearing number 077002559615 and it has been issued in favour of his wife Devmati and the name of the Appellant/Claimant & other family member are mentioned but the date of issuance is not mentioned. Further, Report downloaded from internet (Annexure-J) shows that Ration Card (Annexure-I) has been approved on 18.11.2014, much prior to the cutoff date 01.01.2015. Furthermore, both the Ration Cards (Annexure-H & Annexure-I) have been

24.10.2024 Mawat 24/10/2024 24/10/2024

issued on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Electricity Bill (Annexure-F) and the joint Ration Cards (Annexure-H & Annexure-I) also corroborates that the entire family was living jointly in Jhuggi No. H-32. Moreover, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar from 16.08.2002 (the date of issuance of the first Voter ID Card No. JPF 0730515 - Annexure-A) to 24.08.2023 (the date of issuance of the second second Voter ID Card No. WHC 3660107 - Annexure-B) and further the Appellant/Claimant as well as his wife Devmati are having their respective Voter ID Cards, Aadhar Cards as well as they are also maintaining Bank accounts and also having joint Ration Cards and issuance of two two Ration Cards (Annexure-H & Annexure-I) on 05.09.2009 and 18.11.2014 respectively also corroborates that that the Appellant/Claimant along with his wife Devmati & children have been continuously living jointly in the double storey Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar since long and much prior to the Cutoff date of 01.01.2015 and until now.

78. The Appellant/Claimant has tendered his documents and also of his family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Electricity Bill, Bank Passbook and Ration Cards etc. and all these documents have been issued from 2002 to 2023 and it accordingly amply establishes that he as well as his family members have been living jointly in the double storey Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

79. In view of the matter as per our discussion above, the material placed on file supports the claim of the Appellant/ Claimant and shows that the Appellant/ Claimant fulfils the eligibility criteria as per the policy guidelines issued by DDA as under: -

(a) The material placed on file shows that on the cutoff date of 01.01.2015 the Appellant/ Claimant was & still living separately & independently in the double storey of Jhuggi No. H-32, which constitute single dwelling unit, and further as per our discussion above, the documents, Annexure-A to Annexure-R, shows that the Appellant/Claimant was having a valid Voter ID Card No. JPF 0730515 dated 16.08.2002 (Annexure-A), which is issued much prior to the cutoff date of 01.01.2015 on the address of Jhuggi No. H-32 regarding which he is claiming allotment from DDA. Further, the Appellant/Claimant was having second valid Voter ID Card No. WHC 36601017 dated 24.08.2023

24.10.2024 24/10/2024 24/10/2024

(Annexure-B), which has been issued on the address of Jhuggi No. H-32 regarding which he is claiming allotment from DDA. Furthermore, DDA has not disputed the validity of the second Voter ID Card No. WHC 36601017 dated 24.08.2023 (Annexure-B). The reasons for having two Voter ID Cards (Annexure-A & Annexure-B) has been well explained in this case. Furthermore, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar from 16.08.2002 (the date of issuance of the first Voter ID Card No. JPF 0730515 - Annexure-A) to 24.08.2023 (the date of issuance of the second second Voter ID Card No. WHC 36601017 - Annexure-B). The Appellant/Claimant is also having the Aadhar Card No. 3930 9005 2090 (Annexure-C), which has also been issued on the address of the Jhuggi No. H-32, Jailorwala Bagh, regarding which he is claiming allotment from DDA. Furthermore, the Letter F. No. AERO/AC-17/2024/198 dated 14.06.2024 (Annexure-K) of AERO, AC-17, Wazirpur also shows that the Voter ID Card No. JPF 0730515 (Annexure-A) is a valid document as per the records of the Election Commission and further this Voter ID Card has been duly reflected in the Voter List of the years from 2008 and 2012 & 2013 (Annexure-L to (Annexure-N). But as already pointed out above, the Appellant/Claimant cannot be penalized for not having Voter List of the years 2014, 2015 (prior to 01.01.2015) & 2021 (year of survey). Furthermore, the name of the Appellant/Claimant appears at Sl. No. 237 in the Voter List of the year 2008 (Annexure-L), at Sl. No. 216 in the Voter List of the year 2012 (Annexure-M) and at Sl. No. 2016 in the Voter List of the year 2013 (Annexure-N) and further in these Voter Lists (Annexure-L to Annexure-N) the number of the Voter ID Card of the Appellant/Claimant is mentioned to be JPF 0730515 (Annexure-A). Moreover, in all of the documents, (Annexure-A to Annexure-C and Annexure-L to Annexure-N) the address of the Appellant/Claimant is mentioned to be Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Appellant/Claimant has tendered his Aadhar Card No. 3930 9005 2090 (Annexure-C) and it has been issued on the address of the Jhuggi No. H-32, regarding which he is claiming allotment from DDA.

(b) The material placed on file also shows that the Appellant/Claimant has also tendered the Passbook of Bank of Baroda (Annexure-E), the Electricity Bill (Annexure-F), Aadhar Card (Annexure-G) of his wife Devmati, two Ration Cards (Annexure-H & Annexure-I) and Report downloaded from internet (Annexure-J). The Passbook of Bank of Baroda

24.10.2024 24/10/2024 24/10/2024

(Annexure-E) shows that the Appellant/Claimant had opened the account on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA and further this account has been opened on 23.11.2012, much prior to the cutoff date 01.01.2015. The Electricity Bill (Annexure-F) also shows that the Appellant/Claimant had taken the electricity connection on the address of the Jhuggi No. H-32 regarding which he is claiming allotment from DDA and further, the date of Energisation is given to be 05.03.2009, much prior to the cutoff date 01.01.2015. The Aadhar Card No. 9516 1801 1644 (Annexure-G) of his wife Devmati has also been issued on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA but the date of issuance is not mentioned.

(c) The material placed on file further shows that the first Ration Card (Annexure-H) is bearing number BPL 53090183 and it has been issued in favour of the Appellant/Claimant and the name of his wife Devmati & other family member is mentioned and further, it has been issued on 05.09.2009, much prior to the cutoff date 01.01.2015. The second Ration Card (Annexure-I) is bearing number 077002559615 and it has been issued in favour of his wife Devmati and the name of the Appellant/Claimant & other family member are mentioned but the date of issuance is not mentioned. Further, Report downloaded from internet (Annexure-J) shows that Ration Card (Annexure-I) has been approved on 18.11.2014, much prior to the cutoff date 01.01.2015. Furthermore, both the Ration Cards (Annexure-H & Annexure-I) have been issued on the address of the Jhuggi No. H-32 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Electricity Bill (Annexure-F) and the joint Ration Cards (Annexure-H & Annexure-I) also corroborates that the entire family was living jointly in Jhuggi No. H-32. Moreover, the issuance of two Voter ID Cards shows that the Appellant/Claimant has been continuously living in Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar from 16.08.2002 (the date of issuance of the first Voter ID Card No. JPF 0730515 - Annexure-A) to 24.08.2023 (the date of issuance of the second second Voter ID Card No. WHC 3660107 - Annexure-B) and further the Appellant/Claimant as well as his wife Devmati are having their respective Voter ID Cards, Aadhar Cards as well as they are also maintaining Bank accounts and also having joint Ration Cards and issuance of two two Ration Cards (Annexure-H & Annexure-I) on 05.09.2009 and 18.11.2014 respectively also corroborates that the Appellant/Claimant along with his

24.10.2024 Rawat 24/10/2024 24/10/2024

wife Devmati & children have been continuously living jointly in the double storey Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar since long and much prior to the Cutoff date of 01.01.2015 and until now.

(d) The material placed on file shows that the Passbooks of Bank of Baroda (Annexure-E), the Electricity Bill (Annexure-F) and the Ration Cards (Annexure-H & Annexure-I) are covered as "one of" the documents in the list of the 12 documents as enlisted in Clause 2 of the DDA policy, 2015. It is pointed out that all these documents also corroborate that the Appellant/Claimant along with his family members was living in the Jhuggi No. H-032 since long and much prior to the Cutoff date of 01.01.2015 as well as in the years from 2012 to 2015. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

80. In view of our findings above, we have no hesitation in holding that the survey records placed on file shows that the double storey Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar of the Appellant/ Claimant was found to exist on the cutoff date of 01.01.2015 but his claim was rejected by EDC on 29.08.2022 (Annexure-Q) and the grounds for rejection has been communicated to the Appellant/ Claimant by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-O) whereby two reasons for rejection are mentioned to be **"Voter Card Not verified / Upper Floor".** The material placed on file shows that the Appellant/Claimant has not claimed allotment from DDA against the first floor but he has claimed allotment against the double storey Jhuggi No. H-32, which is a single dwelling unit and moreover the Appellant/Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further his name also appears in any of the voter list of the year's 2008, 2012 and 2013 and further the reasons for his name having not reflected in the Voter List of years 2014, 2015 (prior to 01.01.2015) & of the year of survey (2021) has been well explained in this case and further the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and in addition to that the Appellant/Claimant has tendered his documents and also of his family members, namely, the Voter ID Cards & Aadhar Cards, Electoral Rolls, Electricity Bill, Bank Passbook and Ration Cards etc. and all these documents have been issued from 2002 to 2023 and it accordingly amply establishes that he as well as his family members have

24.10.2024 S/Rawat 24/10/2024 24/10/2024

been living jointly in the double storey Jhuggi No. H-32, Jailorwala Bagh, Ashok Vihar, since long and more particularly on the cutoff date of 01.01.2015 but all these relevant & material facts were not duly considered by EDC and accordingly both the grounds of rejection **"Voter Card Not verified" & "Upper Floor"** as reflected in the EDC Note dated 29.08.2022 (Annexure-Q) and also in the Rejection Order dated 01.07.2023 (Annexure-O) are not sustainable being erroneous, wrong and against the facts found by this Appellate Authority. In the light of our detailed discussion, we have no hesitation in holding that the Appellant/ Claimant was having all the requisite documents and accordingly the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA.

81. In view of our findings above, we have no hesitation in holding that on the cutoff date of 01.01.2015 the Appellant/ Claimant fulfills the eligibility criteria as per the policy guidelines issued by DDA. But the Eligibility Determination Committee has wrongly and illegally rejected his claim. Hence the present appeal No. 150 of 2024 stands allowed, hereby, setting aside the impugned order communicated vide order bearing No. 350-201/350/201/67.G dated 01.07.2023 issued by the Nodal Officer. DDA is hereby directed to make allotment in favour of the Appellant/ Claimant Vishwanath S/o Ram Dulare in respect of the double storey Jhuggi No. H-32, which constitute single dwelling unit, Jailorwala Bagh, Ashok Vihar.

82. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

24.10.2024 24/10/2024 24/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 57 of 2024

Date of Institution: 12.07.2023

Date of Order: 24.10.2024

Present: Appellant/ Claimant Leela Wati W/o Lalta Prasad

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. H-75 Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-75 was found to exist but she had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh,

24.10.2024 24/10/2024 24/10/2024

duly communicated its order bearing No. 350-205/66.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 57 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 14.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-F, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-75 was found to exist but she had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not *Verified*"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. H-75 as per the policy guidelines issued by DDA.

8. The statement of the Appellant / Claimant Leelawati has been recorded before us on

24.10.2024 24/10/2024 24/10/2024

14.10.2024 wherein she has stated that she is married with Lalta Prasad and having two sons, Ayush & Arush. Both the sons are unmarried.

9. The Appellant/Claimant has stated that she is having a single storey Jhuggi No. H-75 in Jailorwala Bagh, Ashok Vihar and it comprises of one room.

10. The Appellant/Claimant has stated that she along with her husband Lalta Prasad and both the sons, Ayush & Arush is living in the said single storey Jhuggi No. H-75, Jailorwala Bagh, Ahok Vihar. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. H-75 but her claim has been rejected by the Eligibility Determination Committee on the sole ground that her Voter ID Card could not be verified in spite of the fact that she is having all the requisite document as per the policy guidelines issued by DDA and accordingly, aggrieved by the same she has filed the present Appeal No. 57 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. H-75. As per survey records the survey was got conducted on 19.04.2020 by Lalta Parsad, who is the husband of the Appellant/Claimant, of Jhuggi No. H-75 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. H-75. The video clip was played before the Appellant/Claimant when her statement was recorded before us on 14.10.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. H-75 in which the Appellant/Claimant is seen and getting the survey conducted of single storey Jhuggi No. H-75 and it is seen to having roof made with tin and further her room & kitchen are seen and furthermore, the Appellant/Claimant is seen holding a slate in her hand on which **"H-75 LEELAWATI G.F"** is seen to have been written.

13. There is nothing to disbelieve the statement of the Appellant / Claimant on the material

24/10/2024 24/10/2024 24/10/2024

aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the single storey Jhuggi No. H-75. Thus the statement of the Appellant/Claimant as well as the survey records has duly proved that the single storey Jhuggi No. H-75 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. H-75 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. H-75 as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-F, in support of her claim and prayed that DDA be directed to make allotment in her favour.

17. 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.

24/10/2024 24/10/2024 24/10/2024

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.

24.10.2024 24/10/2024 24/10/2024

- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

18. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

19. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against

24.10.2024 24/10/2024 24/10/2024

the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

21. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

22. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor

24.10.2024 24/10/2024 24/10/2024

cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the

24.10.2024 24/10/2024 24/10/2024

concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced

24.10.2024 24/10/2024 24/10/2024

before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters

24.10.2024 24/10/2024 24/10/2024

have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double

24.10.2024 24/10/2024 24/10/2024

bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-

24.10.2024 Rawat 24/10/2024 24/10/2024

2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the single storey Jhuggi No. H-75 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi, which is a single dwelling unit. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether her name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the single storey Jhuggi No. H-75 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered Aadhar Card (Annexure-A) in support of her claim.

43. It is pointed out that the Appellant/Claimant has categorically stated that she is not having a Voter ID Card issued on the address of Jhuggi No. H-75 regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly, the question of her name appearing in the Voter List of the years from 2012 to 2015 does not arise. Furthermore, the Appellant/Claimant has tendered her Aadhar Card No. 7453 3948 8254 (Annexure-A) but the date of issuance is not mentioned in this document.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.H-75

24.10.2024 24/10/2024 24/10/2024

Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has tendered the Voter ID Card No. WHC 0344044 (Annexure-B) & Aadhar Card (Annexure-C) of her husband Lalta Prasad, Electricity Bill (Annexure-D) and Ration Cards (Annexure-E & Annexure-F) in support of her claim.

46. It is pointed out that Voter ID Card No. WHC 0344044 (Annexure-B) of her husband Lalta Prasad has been issued on 18.10.2008, much prior to the cutoff date 01.01.2015. However, the Appellant/Claimant has not tendered any Voter List to shows that her husband Lalta Prasad had used this Voter ID Card No. WHC 0344044 (Annexure-B) to cast vote in any of the elections and more particularly in the years from 2012 to 2015. Furthermore, the Appellant/Claimant has tendered Aadhar Card No. 4750 8644 1670 (Annexure-C) of her husband Lalta Prasad but the date of issuance is not mentioned in that document. The Electricity Bill (Annexure-D) shows that her husband Lalta Prasad had taken electricity connection on 18.02.2009. It is also pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure-E & Annexure-F). The first Ration Card No. 781671 (Annexure-E) has been issued in favour of her husband Lalta Prasad but the name of the Appellant/Claimant & their children are conspicuously missing and further this Ration Card has been issued on the address of Jhuggi No. N-207/179 and not on the address of Jhuggi No. H-75 regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly, this document is not relevant to determine the eligibility of the Appellant/Claimant. The second Ration Card No. 077004981002 (Annexure-F) has been issued on the address of Jhuggi No. H-75 in favour of the Appellant/Claimant and the name of her husband is mentioned but the date of issuance is not mentioned. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-75 regarding which the Appellant/Claimant is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to

24.10.2024 24/10/2024 24/10/2024

01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No.H-75 Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-F, furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

24.10.2024 Rawat 24/10/2024 24/10/2024

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected her claim. There is no infirmity and illegality in the impugned order bearing No. 350-205/66.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

24.10.2024 Ahlawat 24/10/2024 24/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 118 of 2024

Date of Institution: 13.07.2023

Date of Order: 25.10.2024

Present: Appellant/ Claimant Rahul S/o Ram Pher

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. N-207/467, BLOCK-H, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh site office, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-207/467, BLOCK-H was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly

25/10/2024 25/10/2024

communicated its order bearing No. 350/Fresh/195 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 118 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 22.10.2024. He 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 the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. N-207/467, BLOCK-H was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether he is entitled to claim allotment against the Jhuggi No. N-207/467, BLOCK-H as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Rahul has been recorded before us on 22.10.2024 wherein he has stated that he is married with Sangita and having three children, Avnish, Manisha & Nisha. All the children are unmarried.

9. The Appellant/Claimant has stated that previously he along with his family was living on rent

25.10.2024 Rawat 25/10/2024 25/10/2024

in Jailorwala Bagh, Ashok Vihar. However, in the year 2017-18 he had purchased a single storey Jhuggi No. N-207/467, Jailorwala Bagh, Ashok Vihar from one Ram Lakhan for a sale consideration of Rs. 1,20,000/- and after purchasing the same, they had started living in the said single storey pucca Jhuggi No. N-207/467.

10. The Appellant/Claimant has stated that he has sought allotment from DDA against the said single storey Jhuggi No. N-207/467 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claimed allotment from DDA against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has admittedly sought allotment from DDA against the said single storey Jhuggi No. N-207/467 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 118 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-E, 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 one video clip of Jhuggi No. N-207/467. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 22.10.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. N-207/467 in which from outside the Jhuggi No. N-207/467 is clearly seen to be a single storey pucca structure having roof made with iron garter /stone slate and the Appellant/Claimant is seen and getting the survey conducted and his room/kitchen is seen and further, he is seen holding a slate in his hand on which **"H-90 (N-207/467) RAHUL (NOT IN LIST) G.F"** is seen to have been written.

12. The admission of the Appellant/Claimant is clincher piece of evidence because he has specifically stated that previously he along with his family was living on rent in Jailorwala Bagh, Ashok Vihar and in the year 2017-18 he had purchased the single storey Jhuggi No. N-207/467, Jailorwala Bagh, Ashok Vihar from one Ram Lakhan for a sale consideration of Rs. 1,20,000/- and after purchasing the same, they had started living in the said single storey pucca Jhuggi No. N-207/467. It is pointed out that the Appellant/Claimant has stated that he does not remember the number of the Jhuggi where he along with his family was living previously on rent in Jailorwala Bagh, Ashok Vihar. Furthermore, the Appellant/Claimant has vaguely stated that he had purchased Jhuggi No. N-207/467 regarding which he is claiming

25/10/2024 25/10/2024

allotment from DDA in the year 2017-18 but the exact date, month and year of purchasing of the same is not disclosed by him. Furthermore, the Appellant/Claimant has stated that he had purchased the said Jhuggi No. N-207/467 from Ram Lakhan but he does not remember the name of father of vendor Ram Lakhan. Moreover, the sale deed and the other documents regarding purchasing of Jhuggi No. N-207/467 from Ram Lakhan on payment of sale consideration of Rs. 1,20,000/- have not been placed on file by the Appellant/Claimant. However, the fact remains that on the cutoff date 01.01.2015, the Appellant/Claimant was not living in Jhuggi No. N-207/467 regarding which he is claiming allotment from DDA because on the cutoff date of 01.01.2015 he along with his family was living on rent in Jailorwala Bagh, Ashok Vihar and further he had come to occupy the said Jhuggi No. N-207/467 in the year 2017-18 and accordingly, the Appellant/Claimant is not eligible to claim allotment from DDA as per the policy guidelines issued by DDA.

13. Thus the vendor Ram Lakhan was living in the Jhuggi No. N-207/467 on the cutoff date of 01.01.2015 but he has not sought alternative allotment from DDA against the said Jhuggi. However, the present Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. N-207/467 inspite of the fact that he was admittedly not living in the Jhuggi No. N-207/467 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2017-2018, therefore, the Appellant/Claimant is not eligible to claim alternative allotment from DDA against the said double storey Jhuggi No. N-207/467.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. N-207/467 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and at that relevant time the erstwhile owner Ram Lakhan was living there but he has not sought allotment from DDA against the said double storey Jhuggi but very interestingly the present Appellant/Claimant has sought allotment from DDA in his individual capacity and not under the previous owner against the said single storey Jhuggi No. N-207/467 inspite of the fact that he was admittedly not living in the Jhuggi No. N-207/467 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2017-2018, therefore, the Appellant/Claimant does not fulfill the eligibly criteria to claim alternative allotment from DDA against the said single storey Jhuggi No. N-207/467 as per the policy guidelines issued by DDA.

15. Now we shall first appraise the material placed on file to determine the eligibility of

25/10/2024 Rawat 25/10/2024 25/10/2024

Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. N-207/467 as per the policy guidelines issued by DDA.

16. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-E, in support of his claim and prayed that DDA be directed to make allotment in his favour.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.

25/10/2024 25/10/2024 25/10/2024

9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

18. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit

25/10/2024 S/Mawat 25/10/2024 25/10/2024

allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

19. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

21. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

22. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the

25/10/2024 Rawat 25/10/2024 25/10/2024

list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment

25/10/2024 Rawat 25/10/2024 25/10/2024

against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot

25/10/2024 25/10/2024 25/10/2024

be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the

25/10/2024 25/10/2024

impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

25/10/2024 Rawat 25/10/2024 25/10/2024

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned

25/10/2024 Mawat 25/10/2024 25/10/2024

Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that the vendor Ram Lakhan was living in the Jhuggi No. N-207/467 on the cutoff date of 01.01.2015 but he has not sought alternative allotment from DDA against the said Jhuggi. However, the present Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. N-207/467 inspite of the fact that he was admittedly not living in the Jhuggi No. N-207/467 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2017-2018, therefore, the Appellant/Claimant is not eligible to claim alternative allotment from DDA against the

25/10/2024 Rawat 25/10/2024 25/10/2024

said single storey Jhuggi No. N-207/467. But despite that the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether he is entitled to claim allotment against the single storey Jhuggi No. N-207/467 as per the policy guidelines issued by DDA.

42. The Appellant/Claimant has tendered his Voter ID Card No. WHC 3660065 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

43. It is pointed out that the Voter ID Card No. WHC 3660065 (Annexure-A) of the Appellant/Claimant has been issued on 24.05.2023, much after the cutoff date 01.01.2015 and accordingly, the question of his name appearing in the Voter List of the years from 2012 to 2015 does not arise. The Appellant/Claimant has tendered Aadhar Card No. 4623 1144 3463 (Annexure-B) but the date of issuance is not mentioned in this document.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. N-207/467 regarding which he has been claiming allotment from DDA and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. The Appellant/Claimant has tendered the Passbook of Bank of Baroda (Annexure-D) and the Electricity Bill (Annexure-E) in support of his claim.

46. It is pointed out that the Passbook of Bank of Baroda (Annexure-D) shows that the Appellant/Claimant had opened the account on 27.12.2016, much after the cutoff date 1.01.2015. Furthermore, the Electricity Bill (Annexure-E) shows that the Appellant/Claimant had taken electricity connection on 17.02.2018, much after the cutoff date 01.01.2015. However, 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

25/10/2024 Rawat 25/10/2024 25/10/2024

favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-207/467, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the vendor Ram Lakhan was living in the Jhuggi No. N-207/467 on the cutoff date of 01.01.2015 but he has not sought alternative allotment from DDA against the said Jhuggi. However, the present Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. N-207/467 inspite of the fact that he was admittedly not living in the Jhuggi No. N-207/467 on the cutoff date of 01.01.2015 because he had come to live in the said Jhuggi in the year 2017-2018, therefore, the Appellant/Claimant is not eligible to claim alternative allotment from DDA against the said single storey Jhuggi No. N-207/467 and furthermore, the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. N-207/467, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on

25/10/2024 Rawat 25/10/2024 25/10/2024

the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with her family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-E, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/195 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

25/10/2024 25/10/2024 25/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 125 of 2024

Date of Institution: 13.07.2023

Date of Order: 25.10.2024

Present: Appellant/ Claimant Guddu S/o Tilak Dhari Saroj

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. H-201, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. H-201 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-10/42.G dated

25.10.2024 Rawat 25/10/2024 25/10/2024

01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 125 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 22.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-201 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. H-201 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Guddu has been recorded before us on 22.10.2024 wherein he has stated that his parents; Tilak Dhari Saroj & Gulabi Devi, are having two sons; Guddu & Mahavir and five daughters; Asha, Subhyawati, Prema, Sunita & Inda. All the

25.10.2024 Rawat 25/10/2024 25/10/2024

children are married. All the five daughters; namely, Asha, Subhyawati, Prema, Sunita & Inda are married and they are living in their respective matrimonial homes in District Azamgarh, Uttar Pradesh. Mahabir is married with Raj Kumari and having three children; Ajay, Aman & Puja. Guddu (Appellant/Claimant) is married with Indu and having three children; Lucky, Prince & Pari.

9. The Appellant/Claimant has stated that his family is having a double storey Jhuggi bearing No. H-201 and it comprises of one room on each floor and an iron ladder of the neighbor is used for going to the upper floor of his Jhuggi.

10. The Appellant/Claimant has stated that he along with his wife Indu & the three children; Lucky, Prince & Pari as well as his parents; Tilak Dhari Saroj & Gulabi Devi, and the family of his brother Mahabir, are living in the said double storey Jhuggi No. H-201. The Appellant/Claimant has sought allotment from DDA against the said double storey Jhuggi No. H-201 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the first floor and further his Voter ID Card could not be verified in spite of the fact that he has claimed allotment from DDA against the said double storey Jhuggi No. H-201 and further he is having all the requisite documents as per policy guidelines and accordingly, aggrieved by the same, he has filed the present Appeal No. 125 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-I, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. H-201. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-201 on 18.03.2020 on the ground floor of the said Jhuggi and the photograph of the said Jhuggi is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. H-201. The video was played before the Appellant/Claimant when his statement was recorded before us on 22.10.2024 wherein he has stated that the video clip pertains to the Jhuggi No. H-201 in which the said Jhuggi is clearly seen from outside to be a pucca double storey and

25.10.2024 25/10/2024 25/10/2024

further, the Appellant/Claimant is seen and getting the survey conducted and his room/kitchen are also seen and further, he is also seen holding a slate in his hand on which **"H-201 GUDDU SAROJ G+1"** is clearly seen to have been written.

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/video clip, about the existence of the double storey Jhuggi No. H-201. Thus the statement of the Appellant/Claimant as well as the survey records/video clips has duly proved that the double storey Jhuggi No. H-201 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-201 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. H-201 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-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. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the

25.10.2024 25/10/2024 25/10/2024

cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-10/42.G dated 01.07.2023.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
> 8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
> 9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.

28.10.2024 25/10/2024 25/10/2024

10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

19. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

20. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before

25.10.2024 25/10/2024 25/10/2024

01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

22. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

23. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the

25.10.2024 25/10/2024 25/10/2024

year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

26. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to

25.10.2024 25/10/2024 25/10/2024

27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

29. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed

25.10.2024 25/10/2024

Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

30. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

31. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card.

25.10.2024 25/10/2024 29/10/2024

The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench

25.10.2024 25/10/2024 25/10/2024

in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-

25.10.2024

2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. H-201 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. H-201 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B),

25/10/2024 25/10/2024 25/10/2024

Aadhar Card (Annexure-C), PAN Card (Annexure-D) and Voter List of the year 2024 (Annexure-H) in support of his claim.

44. It is pointed out that the Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card (Annexure-A) is bearing number WHC 346330 and it has been issued on 01.01.2011, much prior to the cutoff date of 01.01.2015. The Appellant/Claimant has stated that he made a representation to DDA for claiming alternative allotment against the Jhuggi No. H-201 thereby annexing the photocopy of Voter ID Card No. WHC 346330 and further, the photograph (Annexure-I) of this Voter ID Card was also taken by the survey team of DDA at the time of survey dated 18.03.2020.

45. It is pertinent to point out that the Appellant/Claimant has specifically stated that this Voter ID Card (Annexure-A) is a forged & fabricated document as he had got it prepared by making a payment of Rs. 500 to some person. This accordingly shows that the Voter ID Card No. WHC 346330 is a forged & fabricated document and further, the Appellant/Claimant knew this fact very well but despite that, he had used this Voter ID Card to claim alternative allotment from DDA as the copy of this Voter ID Card was annexed by him with the representation made by him to DDA.

46. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that the Voter ID Card No. WHC 346330 is a forged & fabricated document and it shows that the Appellant/Claimant has used a forged & fabricated document to grab alternative allotment from DDA by hook or crook.

47. The second Voter ID Card is bearing number WHC 3660073 (Annexure-B) and it has been issued on 02.07.2023, much after the cutoff date of 01.01.2015 and accordingly, the question of his name arising in the Voter Lists of the years from 2012 to 2015 does not arise. There is no doubt that his name appears at Sl. No. 881 in the Voter List of the year 2024 (Annexure-H). However, it is pointed out that both the documents (Annexure-B & Annexure-H) are not relevant to determine the eligibility of the Appellant/Claimant as they pertain to the post cutoff date of 01.01.2015. The Appellant/Claimant has also tendered his Aadhar Card bearing number 5858 5860 8999 (Annexure-C) and it has been issued in favour of the Appellant/Claimant but the date of issuance is not mentioned therein. Furthermore, the fact also cannot be lost sight that the Appellant/Claimant was not having a valid Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-201, regarding

25/10/2024 25/10/2024 25/10/2024

which he is claiming allotment from DDA but he has used a forged & fabricated Voter ID Card (Annexure-A) to grab allotment from DDA.

48. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-201 regarding which he has been claiming allotment from DDA and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and furthermore, the fact also cannot be lost sight that the Appellant/Claimant had used a forged & fabricated Voter ID Card (Annexure-A) to grab allotment from DDA by hook or crook and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

49. The Appellant/Claimant has also tendered the Ration Card (Annexure-E), Passbook of Vijaya Bank (Annexure-F) and Electricity Bill (Annexure-G) in support of his claim.

50. It is pointed out that the Appellant/Claimant has tendered the Ration Card (Annexure-E) bearing No. 077004210499 and it has been issued in favour of his wife Indu on 18.07.2014 and the name of the Appellant/Claimant is also mentioned therein. The Passbook of Vijaya Bank (Annexure-F) shows that the Appellant/Claimant had opened the account on 05.11.2013. Further, the Electricity Bill (Annexure-G) shows that the Appellant/Claimant has taken the electricity connection on 06.02.2014. However, it is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-201, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and furthermore, the Appellant/Claimant had used a forged & fabricated Voter ID Card (Annexure-A) to grab allotment from DDA by hook or crook, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

51. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific

25/10/2024 25/10/2024 25/10/2024

recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

52. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-201, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and furthermore, the Appellant/Claimant had used a forged & fabricated Voter ID Card (Annexure-A) to grab allotment from DDA by hook or crook, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-I, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

53. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-10/42.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being

25.10.2024 25/10/2024 25/10/2024

devoid of any merit.

54. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

25/10/2024 25/10/2024 25/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 38 of 2024

Date of Institution: 12.05.2023

Date of Order: 29.10.2024

Present: Appellant/ Claimant Rahul Kumar S/o Radhey Shyam

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. B-76, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-76 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

29.10.2024 29/10/2024

allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-221/52.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 38 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 10.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Z and Annexure-ZA to Annexure-ZE, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. B-76 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 (Annexure-Z-D) whereby the reasons for rejection is mentioned to be **"Second documents: JJ dwellers fail to submit one of the 12 documents issued before 01.01.2015 as prescribed"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. B-76 as per the policy guidelines issued by DDA.

29.10.2024 Mawat 29/10/2024 29/10/2024

8. The statement of the Appellant/Claimant Rahul has been recorded before us on 10.10.2024, wherein he has stated that his parents, Radhey Shyam & Usha Devi, are having two sons, Bablu & Rahul, and two daughters, Rinku & Munni. Usha Devi had expired on 09.12.2020 and her Death Certificate is Annexure-M. All the children are married. Rinku is married with Karan and Munni is married with Abhimanu and both the daughters are living in their respective matrimonial homes in Faridabad, Haryana. Bablu is married with Minu and having two children. Rahul (Appellant/Claimant) is married with Rekha and having three children, Manvi, Jhanvi &Mayank.

9. The Appellant/Claimant has stated that he is having a single storey Jhuggi No. B-76, Jailorwala Bagh, Ashok Vihar and it is having roof made with Tirpal.

10. The Appellant/Claimant has stated that he along with his wife Rekha and all the three children, Manvi, Jhanvi & Mayank, as well as parents, Radhey Shyam & Usha Devi (until her death on 09.12.2020), and also the family of his brother Bablu has been living in the said Jhuggi No. B-76. The Appellant/Claimant has sought allotment from DDA against the said single storey Jhuggi No. B-76 but his claim has been rejected by the Eligibility Determination Committee on the ground that second document as per the policy guidelines issued by DDA was not submitted by him in spite of the fact that he has claimed allotment against the said single storey Jhuggi No. B-76 and further he is having all the requisite documents as per the policy guidelines issued by DDA and further in the Rejection Order the number of his Jhuggi has been wrongly mentioned to be bearing Jhuggi No. B-78 whereas he has claimed allotment against Jhuggi No. B-76 and the survey was also conducted against Jhuggi No. B-76 and accordingly aggrieved by the same he has filed the present Appeal No. 38 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has tendered document, Annexure-A to Annexure-Z and Annexure-ZA to Annexure-ZE, in support of his claim and prayed that DDA be directed to make allotment in his favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. B-76. As per survey records (Annexure-ZC) the survey was got conducted by the Appellant/Claimant of the Jhuggi No. B-76 on 11.03.2021 of the said Jhuggi and his photograph in front of his Jhuggi taken by the survey team of DDA is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant is mentioned therein. Further, at the time of conducting of survey/videography the Appellant/Claimant

29.10.2024 Mawat 29/10/2024 29/10/2024

was very much present and he had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. B-76. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 10.10.2024 wherein the Appellant/Claimant has stated the video clip pertains to the Jhuggi No. B-76 in which the said Jhuggi is seen to be a single storey structure having roof made with Tirpal and further, the Appellant/Claimant is seen getting the survey conducted and his room/kitchen are seen and further, the Appellant/Claimant is seen holding a slate in his hand on which **"B-76 RUHUL KUMAR G"** is seen to have been written.

13. It is pointed out that the survey records placed on file shows that the Appellant/Claimant has sought allotment from DDA against the single storey Jhuggi No. B-76 and along with the representation he has submitted his supporting documents issued on the address of Jhuggi No. B-76, Jailorwala Bagh, Ashok Vihar. The survey records (Annexure-ZC) placed on file shows that Jhuggi No. B-76 of the Appellant/Claimant was surveyed on 11.03.2021 against the Survey No.350-221/52.G and the photographs taken by the survey team of the Appellant/Claimant while standing in front of his Jhuggi as well as of the documents tendered by him, which have been annexed with the survey records dated 11.03.2021 (Annexure-ZC). The photograph of the Appellant/Claimant while standing in front of his Jhuggi taken by the survey team of DDA and annexed with the survey records dated 11.03.2021 (Annexure-ZC) shows that the Appellant/Claimant was very much present there and he had got the survey conducted against the single storey Jhuggi No. B-76 having roof made with Tirpal. Furthermore, the photographs, which were taken by the survey team of DDA and annexed with the survey records dated 11.03.2021 (Annexure-ZC), of the documents (Aadhar Card No. 9896 9903 7210 & DL dated 19.09.2017, tendered by the Appellant/Claimant in support of his claim) shows that both the documents have been issued on the address of Jhuggi No. B-76. Furthermore, in the video clip prepared by the survey team, the Appellant/Claimant is seen getting the survey conducted and further, he is holding a slate in his hand on which **"B-76 RUHUL KUMAR G"** is seen to have been written. This shows that Jhuggi of the Appellant/Claimant is mentioned to be bearing Jhuggi No. B-76 and further, his name is wrongly written as "RUHUL KUMAR" instead of "RAHUL KUMAR" but the fact remains that the photographs as well as the video clip prepared by the survey team of DDA shows that the Appellant/Claimant has sought allotment from DDA

29.10.2024 G/Mawat 29/10/2024 29/10/2024

against Jhuggi No. B-76 and all the documents tendered by him pertain to Jhuggi No. B-76 and further, the photograph/videography of Jhuggi No. B-76 was conducted at the time of survey on 11.03.2021 but it seems that advertently in the survey records (Annexure-ZC) the number of his Jhuggi has been wrongly mentioned to be bearing Jhuggi No. B-78 due to clerical/typographical mistake and further this mistake was again repeated while issuing the Rejection Order dated 01.07.2023 (Annexure-ZD) in which the number of the Jhuggi has been wrongly mentioned to be Jhuggi No. B-78, Jailorwala Bagh, Ashok Vihar instead of Jhuggi No. B-76. The Appellant/Claimant cannot be blamed for the wrong mentioning of his Jhuggi number in the survey records (Annexure-ZC) and in the Rejection Order dated 01.07.2023 (Annexure-ZD) and accordingly his claim cannot be discarded for this mistake especially when DDA does not dispute about the existence of Jhuggi of the Appellant/Claimant as reflected in the EDC Note dated 11.12.2022 (Annexure-ZE) and accordingly the mistake in wrong mentioning of Jhuggi number in the survey records (Annexure-ZC) as well as in the Rejection Order dated 01.07.2023 (Annexure-ZD) is ignored. In view of the matter we have no hesitation in holding that the Appellant/Claimant has been claiming allotment against Jhuggi No. B-76 and his eligibility shall be determined qua the said Jhuggi No. B-76.

14. The statement of the Appellant/Claimant as well as the survey records (Annexure-ZC) and and the photographs taken by the survey team of the Appellant/Claimant while standing in front of his Jhuggi as well as of the documents tendered by him, which have been annexed with the survey records dated 11.03.2021 (Annexure-ZC) and the video clips prepared by the survey team of DDA clearly shows that the Appellant/Claimant along with his family is living in the single storey Jhuggi No. B-76 and the same has been used by him for residential purposes but his claim has been rejected by EDC on the grounds that the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 but the existence of the Jhuggi of the Appellant/Claimant is not disputed.

15. Moreover, by taking holistic approach we shall discuss all the legal points in the later part of this order to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/

29.10.2024 29/10/2024 29/10/2024

Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. B-76 as per the policy guidelines issued by DDA.

16. As per our discussion above, the bare perusal of the EDC Note dated 11.12.2022 (Annexure-ZE) shows that it is no where disputed by DDA as far as the existence of the single storey Jhuggi No. B-76 of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently in the said Jhuggi and using it for residential purposes is concerned but his claim was rejected on the sole ground that the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and his name appears in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall be discussed in detail by us in the later part of this order. But the fact remains that as per the stand of DDA the Appellant/ Claimant was having a separate dwelling unit in the single storey Jhuggi No. B-76 except that he was allegedly not having all the requisite documents.

17. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case, which has been corroborated by the survey records/photographs/video clip, about the existence of the single storey Jhuggi No. B-76. Thus the statement of the Appellant/Claimant as well as the survey records/ photographs/video clips has duly proved that the single storey Jhuggi No. B-76 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is living in the single storey Jhuggi No. B-76 and the same has been used by her for residential purposes.

18. Accordingly, we have no hesitation in holding that the single storey Jhuggi No. B-76 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living in the single storey Jhuggi No. B-76 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi.

29-10-2024 G/Mawat 29/10/2024 29/10/2024

19. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the single storey Jhuggi No. B-76 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-Z and Annexure-ZA to Annexure-ZE, in support of his claim and prayed that DDA be directed to make allotment in his 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

29.10.2024 Rawat 29/10/2024 29/10/2024

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."

22. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own

29.10.2024 29/10/2024 29/10/2024

property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

23. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

25. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

26. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative

29/10/2024 Mawat 29/10/2024 29/10/2024

allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

27. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

28. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

29. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to

29.10.2024 Mawat 29/10/2024 29/10/2024

Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

30. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

31. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

29.10.2024 29/10/2024 29/10/2024

32. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

33. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

34. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA

29.10.2024 29/10/2024 29/10/2024

underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

35. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

36. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA

29.10.2024 Mawat 29/10/2024 29/10/2024

policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

37. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

38. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

39. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12

29.10.2024 Mawat 29/10/2024 29/10/2024

documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

40. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

41. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

42. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

43. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

44. It is pointed out that we have already held that the single storey Jhuggi No. B-76 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living in the single storey Jhuggi No.

29.10.2024 Rawat 29/10/2024 29/10/2024

B-76 and further the Appellant/Claimant has been using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said single storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

45. It is also pointed out that we have already held that the bare perusal of the EDC Note dated 11.12.2022 (Annexure-ZE) shows that it is no where disputed by DDA as far as the existence of the Jhuggi No. B-76 of the Appellant/ Claimant and the Appellant/ Claimant along with his family living there separately & independently in the said Jhuggi and using it for residential purposes is concerned but his claim was rejected on the sole ground that the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. The fact as to whether the Appellant/ Claimant was having a valid Voter ID Card on the cutoff date of 01.01.2015 and further whether his name also appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 shall now be discussed in detail herein below by us.

46. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the said single storey Jhuggi No. B-76 as per the policy guidelines issued by DDA.

47. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2136372 (Annexure-A), Aadhar Card (Annexure-B), PAN Card (Annexure-C), the Letter F. No. AERO/AC-17/2024/239 dated 20.09.2024 (Annexure-N) of AERO, AC-17, Wazirpur, Voter List of the year 2015 (Annexure-O), Voter List of the year 2016 (Annexure-P), Voter List of the year 2017 (Annexure-Q), Voter List of the year 2018 (Annexure-R), Voter List of the year 2019 (Annexure-S), Voter List of the year 2020 (Annexure-T), Voter List of the year 2022

29.10.2024 Rawat 29/10/2024 29/10/2024

(Annexure-U), Voter List of the year 2023 (Annexure-V) and Voter List of the year 2024 (Annexure-W) in support of his claim.

48. It is pointed out that the Voter ID Card No. WHC 2136372 (Annexure-A) of the Appellant/Claimant has been issued on 04.04.2024, much after the cutoff date 01.01.2015. The Appellant/Claimant has tendered his Aadhar Card No. 9896 9903 7210 (Annexure-B) but the date of issuance is not mentioned in this document.

49. There is no doubt that the Voter ID Card No. WHC 2136372 (Annexure-A) of the Appellant/Claimant has been issued on 04.04.2024. However, it is pointed out that the Letter F. No. AERO/AC-17/2024/239 dated 20.09.2024 (Annexure-N) of AERO, AC-17, Wazirpur shows that Voter ID Card No. WHC 2136372 (Annexure-A) of the Appellant/Claimant is a valid document as per the records of the Election Commission and further this Voter ID Card is reflected in the Voter List of the years from 2015 to 2024. Further, the name of the Appellant/Claimant appears at Sl. No. 1567 in the Voter List of the year 2015 (Annexure-O), at Sl. No. 385 in the Voter List of the year 2016 (Annexure-P), at Sl. No. 395 in the Voter List of the year 2017 (Annexure-Q), at Sl. No. 409 in the Voter List of the year 2018 (Annexure-R), at Sl. No. 411 in the Voter List of the year 2019 (Annexure-S), at Sl. No. 433 in the Voter List of the year 2020 (Annexure-T), at Sl. No. 450 in the Voter List of the year 2022 (Annexure-U), at Sl. No. 466 in the Voter List of the year 2023 (Annexure-V) and at Sl. No. 502 in the Voter List of the year 2024 (Annexure-W).

50. This accordingly shows that the Voter ID Card No. WHC 2136372 (Annexure-A) dated 04.04.2024 of the Appellant/Claimant is a duplicate Voter ID Card and original must have been issued in the Year 2015 because as per the Letter F. No. AERO/AC-17/2024/239 dated 20.09.2024 (Annexure-N) of AERO, AC-17, Wazirpur, this Voter ID Card No. WHC 2136372 (Annexure-A) has been reflected in the Voter List of the year from 2015 to 2024 (Annexure-O to Annexure-W) but it is no where mentioned that this Voter ID Card was issued prior to the cutoff date of 01.01.2015.

51. Now, it has to be ascertained whether there are ample cogent materials on file to show that the Voter ID Card No. WHC 2136372 was actually issued before the cutoff date of 01.01.2015 or not.

52. It is pertinent to point out that the original Voter ID Card No. WHC2136372 (Annexure-A) has not been placed of file by the Appellant/Claimant and accordingly, the date on which

29.10.2024 Rawat 29/10/2024 29/10/2024

this Voter ID Card No. WHC 2136372 was actually issued cannot be ascertained. The factum that this Voter ID Card No. WHC 2136372 is reflected in the Voter List of 2015 (Annexure-O) does not ipso facto shows that this Voter ID Card was issued prior to the cutoff date of 01.01.2015 but there is more likelihood that it was issued after the cutoff date of 01.01.2015. The Appellant/Claimant has not offered any explanation as to why he had not tendered the original Voter ID Card No. WHC 2136372 because he has maintained complete silence on this aspect. Even if the original has been misplaced or lost by the Appellant/Claimant then he would have got the duplicate copy issued from the Election Commission but neither the original nor the duplicate copy of the same has been tendered on file. It seems that the Voter ID Card Voter ID Card No. WHC 2136372 might have been actually issued after the cutoff date of 01.01.2015 and that is why he had withheld this material document. In view of the matter we have no hesitation in holding that Appellant/Claimant has failed miserably to explain as to why he had not tendered the original Voter ID Card Voter ID Card No. WHC 2136372 and accordingly adverse inference is drawn against him for having concealed the material facts.

53. Moreover, the fact remains that the Voter ID Card No. WHC 2136372 (Annexure-A) of the Appellant/Claimant has been issued on 04.04.2024, much after the cutoff date 01.01.2015. There is no doubt that this Voter Id Card No. WHC 2136372 has been reflected in the Voter List of the years 2015 to 2024 (Annexure-O to Annexure-W) and it shows that the original Voter ID Card No. WHC 2136372 was in existence in the year 2015 and further it is a valid document as mentioned in the Letter F. No. AERO/AC-17/2024/239 dated 20.09.2024 (Annexure-N) of AERO, AC-17, Wazirpur but there is no cogent material on file to draw inference that this Voter ID Card No. WHC 2136372 was issued prior to the cutoff date of 01.01.2015. Further as already been pointed out above, the Appellant/Claimant has intentionally not tendered the original or duplicate copy of the Voter ID Card No. WHC 2136372 because he very well knew that if the original Voter ID Card No. WHC 2136372 is tendered on file then it would have been very well ascertained that it was issued much after the cutoff date of 01.01.2015.

54. The material placed on file shows that there are no cogent materials on file to show that the Voter ID Card No. WHC 2136372 was actually issued before the cutoff date of 01.01.2015. Further, all the documents, (Annexure-A, Annexure-B, Annexure-P to Annexure-W) are not relevant to determine the eligibility of the Appellant/Claimant

29.10.2024 Jhalawat 29/10/2024 29/10/2024

because all these documents pertain to the post 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 cutoff date of 01.01.2015 issued on the address of Jhuggi No. B-76 regarding which he has been claiming allotment from DDA and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

55. The Appellant/Claimant has tendered Driving License (Annexure-D), Voter ID Card No. WHC 3711322 (Annexure-E) & Aadhar Card (Annexure-F) of his wife Rekha, Voter ID Card No. WHC 0337527 (Annexure-G) & PAN Card (Annexure-H) of his father Radhey Shyam, Voter ID Card No. JPF 0677062 (Annexure-I) & Aadhar Card (Annexure-J) of his mother Usha Devi (since deceased), Aadhar Cards (Annexure-K & Annexure-L) of his daughters, Manvi & Janvi, Ration Cards (Annexure-X & Annexure-Y), Birth Certificates (Annexure-Z & Annexure-ZA) of his daughters, Manvi & Janvi and the Passbook of Allahabad Bank (Annexure-ZB) in support of his claim.

56. It is pointed out that Driving License (Annexure-D) of the Appellant/Claimant has been issued on 19.09.2017, much after the cutoff date of 01.01.2015. Furthermore, the Voter ID Card No. WHC 3711322 (Annexure-E) of his wife Rekha has been issued on 03.04.2024, much after the cutoff date of 01.01.2015. The Aadhar Card No. 6907 9309 7572 (Annexure-F) of his wife Rekha has also been tendered but the date of issuance is not mentioned in that document. The material placed on file shows that the Appellant/Claimant and his wife Rekha were not having a valid Voter ID Card on the cutoff date of 01.01.2015 and further their names also do not appear in the Voter List of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

57. It is pointed out that the Voter ID Card No. WHC 0337527 (Annexure-G) of his father Radhey Shyam has been issued on 05.09.2016, much after the cutoff date of 01.01.2015. Furthermore, the Voter ID Card No. JPF 0677062 (Annexure-I) of his mother Usha Devi (since deceased) has also been issued on 10.04.2019, much after the cutoff date of 01.01.2015. The material placed on file shows that the both the parents of the Appellant/Claimant were not having a valid Voter ID Card on the cutoff date of 01.01.2015 and further their name also do not appear in the Voter List of the years from 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey.

29.10.2024 Mawat 29/10/2024 29/10/2024

58. The Aadhar Card No. 6910 9865 9952 (Annexure-J) of his mother Usha Devi (since deceased) has been issued on 17.09.2011, much prior to the cutoff date 01.01.2015. Furthermore, both the Aadhar Cards (Annexure-K & Annexure-L) of his daughters, Manvi & Janvi respectively have been issued on 15.09.2021, much after the cutoff date of 01.01.2015. It is pointed out that the Appellant/Claimant has tendered two Ration Cards (Annexure-X & Annexure-Y). The old Ration Card No. BPL53090114 (Annexure-X) has been issued in favour of his father Radhey Shyam and the name of the Appellant/Claimant is mentioned and further, this ration card has been issued on 10.02.2010, much prior to the cutoff date 01.01.2015. The second Ration Card No. 077002559548 (Annexure-Y) has been issued in favour of the Appellant/Claimant but the date of issuance is not mentioned. Furthermore, both Ration Cards (Annexure-X & Annexure-Y) have been issued on the address of Jhuggi No. N-207/407 and not on the address of Jhuggi No. B-76 regarding which the Appellant/Claimant has been claiming allotment from DDA and accordingly, both the documents are not relevant. The Birth Certificates (Annexure-Z & Annexure-ZA) of his daughters, Manvi & Janvi have been issued on 07.04.2022 and 04.10.2021, much after the cutoff date of 01.01.2015. Furthermore, the Passbook of Allahabad Bank (Annexure-ZB) shows that his wife Rekha Devi had opened the account on 28.02.2018, much after the cutoff date of 01.01.2015. It is pointed out that the above-mentioned documents (Annexure-D to Annexure-L and Annexure-X to Annexure- Z and Annexure-ZA & Annexure-ZB) are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. B-76, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

59. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed

29.10.2024 Rawat 29/10/2024 29/10/2024

in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

60. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. B-76, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further the Appellant/ Claimant was not having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-Z and Annexure-ZA to Annexure-ZE, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

61. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material 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.

29/10/2024 Mawat 29/10/2024 29/10/2024

350/-221/52.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

62. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

29.10.2024 29/10/2024 29/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

EFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 43 of 2024

Date of Institution: 11.07.2024

Date of Order: 29.10.2024

Present: Appellant/ Claimant Rajo W/o Janvesh D/o Mahender Pal

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that she is living in Jhuggi bearing No. F-216, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that she fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. F-216 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

29.10.2024 29/10/2024 29/10/2024

allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-76/60.G dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 43 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 16.10.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Appellant / Claimant's Jhuggi bearing No. F-216 was found to exist but she had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to her by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the Jhuggi No. F-216 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Rajo has been recorded before us on 16.10.2024 wherein she has stated that she was married with Janvesh and having three children;

29.10.2024 29/10/2024 29/10/2024

Asosh, Laxmi & Payal were born out of the wedlock. All the children are unmarried. Janvesh had taken a divorce about seven years ago and now a day he is living in Badaun, Uttar Pradesh whereas Rajo (Appellant/Claimant) along with all the three children is living in Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that she is having a triple storey Jhuggi No. F-216 and it comprises of one room on the ground floor, two rooms on the first floor and one room on the second floor and an iron ladder is placed outside in the gali and it is used for going to the first floor and thereafter, a bamboo ladder is placed on the first floor and the same is used for going to the second floor.

10. The Appellant/Claimant has stated that both the rooms on the first floor have been rented out to one Prashant S/o Ram Babu whereas the Appellant/Claimant Rajo along with her children Asosh, Laxmi & Payal has been living on the ground & the second floor of the triple storey Jhuggi No. F-216. The Appellant/Claimant has sought allotment from DDA against the said triple storey Jhuggi No. F-216 but her claim was rejected by Eligibility Determination Committee on the ground that she has been found to have claimed allotment against the upper floor and further her Voter ID Card could not be verified in spite of the fact that she has admittedly claimed allotment against the triple storey Jhuggi No. F-216 and further she is having all the requisite documents issued as per policy guidelines issued by DDA and accordingly, aggrieved by the same, she has filed the present Appeal No. 43 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

11. DDA has furnished survey records along with one video clip of Jhuggi No. F-216. As per survey records the survey was got conducted on 22.11.2020 by the Appellant/Claimant of Jhuggi No. C-47 and her photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography the Appellant/Claimant was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished survey record along with one video clip pertaining to the Jhuggi No. F-216. The video was played before the Appellant/Claimant when her statement was recorded before us on 31.10.2024 wherein she has stated that the video clip pertains to

29.10.2024 29/10/2024 29/10/2024

the Jhuggi No. F-216 in which Jhuggi No. F-216 is clearly seen to be a pucca triple storey structure and further, an iron ladder placed outside in the gali and used for going to the first floor is also seen and further, the Appellant/Claimant is seen and getting the survey conducted and her room & kitchen is also seen on the ground floor and she is also seen holding a slate in her hand on which **"F-216 RAJO G+1"** is clearly seen to have been written.

13. There is nothing to disbelieve the statement of the Appellant/Claimant on the material aspect of the case about the existence of the single storey Jhuggi No. F-216. Further renting out first floor by the Appellant/Claimant does not mar the rights of the Appellant/Claimant to claim allotment from DDA especially when she along with her family is living on the ground & second floor of the said Jhuggi and thus the Appellant/Claimant is having constructive possession of the first floor and physical possession of the ground & second floor of the said Jhuggi and accordingly the Appellant/Claimant has rightly claimed allotment from DDA against he said triple storey Jhuggi. Thus the statement of the Appellant/Claimant has duly proved that the triple storey Jhuggi No. F-216 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with her family is living in the triple storey Jhuggi No. F-216 and is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the Jhuggi No. F-216 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and further the Appellant/Claimant along with her family was & is still living the said triple storey Jhuggi No. F-216 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said triple storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the triple storey Jhuggi No. F-216 as per the policy guidelines issued by DDA.

29.10.2024 29/10/2024 29/10/2024

16. The Appellant/ Claimant has stated that her claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-G, in support of her claim and prayed that DDA be directed to make allotment in her favour.

17. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi 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.

29.10.2024 Rawat 29/10/2024 29/10/2024

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

18. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

19. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out

29.10.2024 29/10/2024 29/10/2024

of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

20. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

21. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

22. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper

29.10.2024 29/10/2024 29/10/2024

floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

24. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

25. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli

29.10.2024 G. Rawat 29/10/2024

Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

26. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

27. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

28. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

29.10.2024 29/10/2024

29. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to

29/10/2024 Rawat 29/10/2024 29/10/2024

allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

31. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

32. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

33. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

34. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench

29.10.2024 Mawat 29/10/2024 29/10/2024

in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

35. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

36. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

37. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name

29.10.2024 Nawal 29/10/2024 29/10/2024

must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

39. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

40. It is pointed out that we have already held that that the triple storey Jhuggi No. F-216 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and further the Appellant/Claimant along with her family was & is still living the said triple storey Jhuggi No. F-216 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said triple storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

41. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether her name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether she is entitled to claim allotment against the said triple storey Jhuggi No. F-216 as per the policy guidelines

29.10.2024 29/10/2024 29/10/2024

issued by DDA.

42. The Appellant/Claimant has tendered her Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of her claim.

43. It is pointed out that the Appellant/Claimant has tendered her Voter ID Card bearing number WHC 2261542 (Annexure-A) and it has been issued on 06.07.2017, much after the cut off date of 01.01.2015 and accordingly, the question of her name arising in any of the Voter Lists of the years from year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey does not arise. Furthermore, the Appellant/Claimant has tendered her Aadhar Card bearing No. 8070 5640 5735 (Annexure-B) and it has been issued on 06.11.2011, much prior to the cut off date of 01.01.2015.

44. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-216 Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

45. Furthermore, the Appellant/Claimant has also tendered the Aadhar Card (Annexure-D) of her husband Janvesh, Passbook of PNB (Annexure-E), Electricity Bill (Annexure-F) and Ration Card (Annexure-G) in support of her claim.

46. It is pointed out that the Appellant/Claimant has stated that her husband Javnesh had divorced her about seven years ago and now he is living in Badaun, Uttar Pradesh. The Appellant/Claimant has tendered the Aadhar Card No. 7183 8773 8401 (Annexure-D) of Javnesh but the date of issuance is not mentioned therein. Furthermore, the Passbook of PNB (Annexure-E) shows that the Appellant/Claimant has opened the account on 11.09.2018, much after the cut off date of 01.01.2015. The Electricity Bill (Annexure-F) shows that the Appellant/Claimant had taken the electricity connection on 21.02.2011. The Ration Card No. 077005280841 (Annexure-G) has been issued in favour of the Appellant/Claimant and the name of her husband and other family members is mentioned and further, it has been issued on 18.06.2020, 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

29.10.2024 29/10/2024 29/10/2024

her favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-216 regarding which she has been claiming allotment from DDA and further no Voter List has been placed on file to show that 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, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

47. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

48. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. F-216, Jailorwala Bagh, regarding which she is claiming allotment from DDA and further her name also does not appear in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G,

29.10.2024 Rawat 29/10/2024 29/10/2024

furnished by the Appellant/ Claimant do not create any legal right, title and interest in her favour to make her eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

49. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-76/60.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

50. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

29.10.2024 29/10/2024 29/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 152 of 2024

Date of Institution: 17.07.2024

Date of Order: 30.10.2024

Present: Appellant/ Claimant Manoj Kumar S/o Kalpnath

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. H-11, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility /relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey records, the Appellant/ Claimant's Jhuggi bearing No. H-11 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Jailorwala Bagh, duly communicated its order bearing No. 350-24/19.G dated

30.10.2024 30/10/2024 30/10/2024

01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 152 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 23.10.2024. He has also tendered documents, Annexure-A to Annexure-G, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. H-11 was found to exist but he had failed to submit required documents, i.e., Voter ID Card etc. as on 01.01.2015 as per the policy guidelines for alternate allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not Verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the Jhuggi No. H-11 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Manoj Kumar has been recorded before us on 23.10.2024, wherein he has stated that his parents, Kalapnath & Kamlesh, are having four sons, Arjun, Arun, Manoj Kumar & Vinod. All the children except Vinod are married. His parents, Kalapnath & Kamlesh, are living in Pratapgarh, Uttar Pradesh. Arun was married but

30.10.2024 S Rawat 30/10/2024 30/10/2024

he has taken divorce and now-a-days he is living in Pratapgarh, Uttar Pradesh. Arjun is married with Suryakalan and having two children and they are living on rent in Jailorwala Bagh, Ashok Vihar. Manoj Kumar (Appellant/Claimant) is married with Kranti Devi and having one son Adi.

9. The Appellant/Claimant has stated that he is living in a double storey Jhuggi No. H-11 and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor.

10. The Appellant/Claimant has stated that he along with his wife Kranti Devi and son Adi is living in the double storey Jhuggi No. H-11. Previously, his unmarried brother Vinod was also living with them but after sometime he had also shifted to Pratapgarh, Uttar Pradesh. The Appellant/Claimant has stated that he has sought allotment from DDA against the said double storey Jhuggi No. H-11 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claim allotment from DDA against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has admittedly sought allotment from DDA against the said double storey Jhuggi No. H-11 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 152 of 2024 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.

11. DDA has furnished survey records along with one video clip of Jhuggi No. H-11. As per survey records the survey was got conducted by the Appellant/Claimant of Jhuggi No. H-11 on 19.03.2020 on the ground floor of the said Jhuggi and his photograph is also attached in token thereof and further the documents tendered in support of the claim of the Appellant/Claimant as well as the details of the family members is mentioned therein. Further, at the time of conducing of survey/videography Kalawati, who is the aunt of the Appellant/Claimant, was very much present and she had got the survey/videography conducted and the video clip is also attached in token thereof.

12. DDA has furnished the survey records along with one video clip of Jhuggi No. H-11. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 23.10.2024 wherein the Appellant / Claimant has stated the video clip pertains to the

30.10.2024 Kawat 30/10/2024

Jhuggi No. H-11 in which his "mami" (wife of his maternal uncle) Kalawati is seen and getting the survey conducted on the behalf of the Appellant/Claimant and she is heard stating that her nephew Manoj Kumar (Appellant/Claimant) is living on the ground floor whereas his brother is living on the first floor and further, the Jhuggi is seen to be a pucca structure and further, his room & kitchen are seen and furthermore, his maternal aunt is seen holding a slate in her hand on which **"H-11 MANOJ KUMAR G+1"** is seen to have been written.

13. The admission of the Appellant/Claimant is a clincher piece of evidence and there is nothing to disbelieve his statement on the material aspect of the case about the existence of the double storey Jhuggi No. H-11. Thus the statement of the Appellant/Claimant has duly proved that the double storey Jhuggi No. H-11 was in existence in Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family is living in the said double storey Jhuggi No. H-11 and is using the same for residential purposes.

14. Accordingly, we have no hesitation in holding that the double storey Jhuggi No. H-11 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and further the Appellant/Claimant along with his family was & is still living in the said double storey Jhuggi No. H-11 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi.

15. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. H-11 as per the policy guidelines issued by DDA.

16. The Appellant/Claimant has stated that his claim has been wrongly rejected by DDA. He has tendered documents, Annexure-A to Annexure-G, in support of his claim and prayed that DDA be directed to make allotment in his favour.

30.10.2024 Rawat 30/10/2024 30/10/2024

17. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but he is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further her name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350-24/19.G dated 01.07.2023.

18. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 2. The Jhuggi Jhoopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006, the cut-off date of residing in the Jhuggi for becoming eligible for rehabilitation shall be 01-01-2015.
> 3. The name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation.
> 4. The name of the JJ dwellers must appear in the survey conducted by LM Department.
> 5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
> 6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
> 7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the

30.10.2024 S Rawat 30/10/2024 30/10/2024

Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.

8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

19. It is mandated that there is verification in terms of biometric authentication via Aadhar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi

30.10.2024 30/10/2024 30/10/2024

or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

20. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

21. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

22. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

23. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card,

30.10.2024 30/10/2024

will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

24. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

25. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

26. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a

30.10.2024 30/10/2024 30/10/2024

stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

27. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

28. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

29. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for

30.10.2024 Rawat 30/10/2024 30/10/2024

obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

30. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

31. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of

30.10.2024 30/10/2024 30/10/2024

evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

32. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

33. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

30/10/2024 Mawat 30/10/2024 30/10/2024

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

34. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

35. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

36. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

37. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned

30.10.2024 Rawat 30/10/2024

Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

38. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

39. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

40. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

41. It is pointed out that we have already held that the double storey Jhuggi No. H-11 was in existence in the Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and the Appellant/Claimant along with his family was & is still living in the said double storey Jhuggi No. H-11 and using the same for residential purposes and further the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

30.10.2024 30/10/2024 30/10/2024

42. Now we shall now appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in one of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. H-11 as per the policy guidelines issued by DDA.

43. The Appellant/Claimant has tendered his Voter ID Card No. WHC 2274750 (Annexure-A), Aadhar Card (Annexure-B) and PAN Card (Annexure-C) in support of his claim.

44. It is pointed out that the Voter ID Card No. WHC 2274750 (Annexure-A) of the Appellant/Claimant has been issued on 04.04.2018, much after the cutoff date 01.01.2015 and accordingly the question of his name appearing in the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey does not arise. Furthermore, Aadhar Card No. 5038 1995 7234 (Annexure-B) of the Appellant/Claimant has been issued on 15.08.2013.

45. Therefore, we have no hesitation in holding that the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of Jhuggi No. H-11 regarding which he has been claiming allotment from DDA and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

46. The Appellant/Claimant has tendered Aadhar Card (Annexure-D) & PAN Card (Annexure-E) of his wife Kranti Devi, Electricity Bill (Annexure-F) and the Passbook of SBI (Annexure-G) in support of his claim.

47. It is pointed out that the Appellant/Claimant has tendered the Aadhar Card No. 8629 0305 5302 (Annexure-D) of his wife Kranti Devi and it has been issued on 27.04.2015, much after the cutoff date of 01.01.2015 and further the Appellant/Claimant has not tendered her Voter ID Card to show that she was having a Voter ID Card issued on the address of Jhuggi No. H-11 and she had used her Voter ID Card to cast vote in any of the election and more particularly in the years from 2012 to 2015. The Electricity Bill (Annexure-F) shows that the

30.10.2024 30/10/2024

Appellant/Claimant had taken electricity connection on 18.02.2009. The Passbook of SBI (Annexure-G) shows that the Appellant/Claimant had opened the account on 03.05.2013. Furthermore, neither the Appellant/Claimant nor his wife Gyanti was having a valid Voter ID Card on the cutoff date 01.01.2015 and further, their names also do not appear in the Voter List of the years from 2012 to 2015. It is pointed out that the above-mentioned documents are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-11, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.

48. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

49. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 issued on the address of the Jhuggi No. H-11, Jailorwala Bagh, regarding which he is claiming allotment from DDA and further his name also does not appear in the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey, therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false

30.10.2024 30/10/2024

facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-G, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

50. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350-24/19.G dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

51. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

30.10.2024 30/10/2024

(Ranbir Singh)	(Satish Ahlawat)	(Rachna Tiwary)
Jt. Secretary (Retd.) GOI	Addl. District & Sessions Judge (Retd.)	
MEMBER	CHAIRMAN	EXPERT MEMBER

BEFORE APPELLATE AUTHORITY TO HEAR THE APPEALS/ REDRESS THE GRIEVANCES RELATED TO DETERMINATION/ RELOCATION OF JJ DWELLERS OF JAILORWALA BAGH, ASHOK VIHAR

Appeal No: 234 of 2024

Date of Institution: 27.07.2023

Date of Order: 30.10.2024

Present: Appellant/ Claimant Ram Ashish S/o Shawan Dev

Sh. Radhe Shyam Meena, Dy. Director, for DDA

ORDER

1. This order disposes off the present appeal filed by the appellant/claimant against order dated 01.07.2023 passed by the Eligibility Determination Committee.

2. In brief, the present Appellant/ Claimant had made a Representation to the Competent Authority thereby alleging that he is living in Jhuggi bearing No. G-65, Jailorwala Bagh, Ashok Vihar. A Public Notice by DDA was pasted in the Jailorwala Bagh to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination of eligibility/relocation of JJ Dwellers of Jailorwala Bagh. The Appellant/ Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.05.2022 thereby intimating the dwellers about organizing of a camp by DDA from 01.06.2022 to 15.06.2022 at DDA site office at Jailorwala Bagh, Ashok Vihar, Delhi-52 wherein the Appellant/ Claimant was given an opportunity for submission of required documents but the Appellant/ Claimant had failed to submit requisite documents. As per survey record, the Appellant/ Claimant's Jhuggi bearing No. G-65 was found to exist but he had failed to submit requisite documents as per the policy guidelines for alternate allotment. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer,

30.10.2024 30/10/2024 31/10/2024

Jailorwala Bagh, duly communicated its order bearing No. 350/Fresh/133 dated 01.07.2023 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 234 of 2024 has been filed by the present Appellant/ Claimant.

3. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Radhe Shyam Meena, Dy. Director.

4. The statement of the Appellant/Claimant has been recorded before us on 24.07.2024. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-S, in support of his claim. DDA has furnished the survey records and also the Video Clippings prepared along with the survey.

5. Arguments advanced by the Appellant/Claimant as well as Sh. Radhe Shyam Meena, Dy. Director, for DDA heard at great length and the documents submitted by both the parties are also minutely appraised.

6. It is the admitted fact that as per survey records, the Appellant / Claimant's double storey Jhuggi bearing No. G-65 was found to exist but he had failed to submit required documents as on 01.01.2015 as per the policy guidelines for alternative allotment. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 01.07.2023 whereby the reasons for rejection is mentioned to be **"Voter Card Not verified / Upper Floor"** and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.

7. Thus in the present Appeal we are concerned with dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant was having all the requisite documents, including valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. G-65 as per the policy guidelines issued by DDA.

8. The statement of the Appellant/Claimant Ram Ashish has been recorded before us on 24.07.2024 wherein he has stated that he is married with Usha Devi and having one son,

30.10.2024 30/10/2024 30/10/2024

Deepak, and three daughters, Chanda, Puja & Gudia. Deepak and Gudia are unmarried. Chanda is married with Manoj and Puja is married with Prakash and both the daughters are living in their respective matrimonial homes in Azamgarh, Uttar Pradesh. Further, his wife, Usha Devi, along with both the unmarried children, Deepak & Gudia, is also living in their native village in District Azamgarh, Uttar Pradesh whereas the Appellant/Claimant is living alone in Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar.

9. The Appellant/Claimant has stated that he is having a double storey Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar and it comprises of one room on each floor and an iron ladder is placed outside in the gali and it is used for going to the upper floor. The Appellant/Claimant has sated that he is living all alone in double storey Jhuggi No. G-65 whereas his wife & unmarried children are living in their native village in District Azamgarh, Uttar Pradesh. The Appellant/Claimant has stated that he has claimed allotment from DDA against the double storey Jhuggi No. G-65 but his claim has been rejected by the Eligibility Determination Committee on the ground that he has been found to have claimed allotment against the upper floor and further his Voter ID Card could not be verified in spite of the fact that he has admittedly claimed allotment against the said double storey Jhuggi No. G-65 and further he is having all the requisite documents as per the policy guidelines issued by DDA and accordingly, aggrieved by the same he has filed the present Appeal No. 234 of 2024 before the Appellate Authority for redressal. The Appellant/Claimant has also tendered document, Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment in his favour.

10. DDA has furnished the survey records along with one video clips of Jhuggi No. G-65. The video clip was played before the Appellant/Claimant when his statement was recorded before us on 24.07.2024 wherein the Appellant/Claimant has stated that the video clip pertains to the Jhuggi No. G-65 in which the Appellant/Claimant is seen and getting the survey conducted and further, he is heard stating that he is having a double storey Jhuggi and further, his room & kitchen are seen and furthermore, he is seen holding a slate in his hand on which **"G-65 RAM ASHISH (NOT IN LIST) G+1"** is seen to have been written.

11. Furthermore, the Appellant/Claimant has stated that he is living all alone in double storey Jhuggi No. G-65 whereas his wife & unmarried children are living in their native village in District Azamgarh, Uttar Pradesh. It is very strange that the Appellant/Claimant is living alone in the double storey Jhuggi. However, it is pointed out that the Appellant/Claimant has

30.10.2024 Rawat 30/10/2024 30/10/2024

alleged that he is living in the said Jhuggi for the last 15-20 years but in the video clip prepared by the survey team of DDA the Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar appears to be newly constructed in the video because the bricks and other material look new, and the floor of the Jhuggi is still incomplete and further there are no utensils in the kitchen area. This creates doubt & suspicion.

12. It is pertinent to point out that the Appellant/Claimant had not made promptly the representation to claim allotment from DDA against the Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar for the reasons best known to him. But he had made an Application for Re-survey (Annexure-R) and application was placed before the Claim and Objection Redressal Committee and after getting the re-survey of Jhuggi done the Claim and Objection Redressal Committee had submitted its detailed Report dated 21.07.2022 (Annexure-S).

13. As already pointed out above the Appellant/Claimant had not promptly made the representation to claim allotment from DDA against the Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar for the reasons best known to him and this creates doubt & suspicion. It seems that as a result and after thought the Appellant/Claimant had made an Application for Re-survey (Annexure-R) thereby alleging that he is living in Jhuggi No. G-65, Jailorwala Bagh and his name does not appear in the list and accordingly it was requested that his Jhuggi be got surveyed. Here it is pertinent to point out that under the "Name of Applicant & Address" given in the said Application (Annexure-R) his address is mentioned to be **"Jhuggi No. G-64"**, Jailorwala Bagh and furthermore, the date, month & year of making of application is not mentioned. This shows that two contradictory numbers of Jhuggi are given in the said Application (Annexure-R) and it creates doubt & suspicion with regard to the number of Jhuggi regarding which he is claiming allotment from DDA.

14. Furthermore, on the said Application (Annexure-R) itself there is a report of the survey team that the Jhuggi was found locked. There is no doubt that the Appellant/Claimant has stated that he is living alone in double storey Jhuggi No. G-65 whereas his wife & unmarried children are living in their native village in District Azamgarh, Uttar Pradesh. It is very strange that the Appellant/Claimant shall be living all alone in the said double storey Jhuggi and the fact that the said Jhuggi was found locked and moreover in the video clip prepared by the survey team of DDA the Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar this Jhuggi appears to be newly constructed because the bricks & other material look new and the floor of the Jhuggi is still incomplete and further there are no utensils in the kitchen area and all these facts creates

30.10.2024 30/10/2024 30/10/2024

and doubt and it shows that the Appellant/Claimant was not living there because had he been living in the said Jhuggi then he would not have given two different numbers of Jhuggi (Jhuggi No. G-64 as well as Jhuggi no. G-65) in his Application (Annexure-R) regarding which he has claimed allotment from DDA.

15. It seems that the Appellant/Claimant by making representation to the survey team had somehow succeeded in getting the videography conducted in which he is seen holding a slate in his hand on which **"G-65 RAM ASHISH (NOT IN LIST) G+1"** is seen to have been written. However, this video clip alone is not sufficient to show that the Appellant/Claimant is living alone in double storey Jhuggi No. G-65 whereas his wife & unmarried children are living in their native village in District Azamgarh, Uttar Pradesh. It is also pointed out that the Claim and Objection Redressal Committee had submitted its detailed Report dated 21.07.2022 (Annexure-S) in which it is mentioned that the Appellant/Claimant had made application dated "June 2022" before the Claim and Objection Redressal Committee for resurvey and it is also mentioned that on re-survey his Jhuggi on ground floor was found to be locked and the neighbors had verified that he was not not living there and further his documents were also found to have been issued after the cutoff date. The detailed Report dated 21.07.2022 (Annexure-S) of the Claim and Objection Redressal Committee is a clincher piece of evidence and it also shows that the Appellant/Claimant had made the representation for resurvey very late and it was the result of after though & concoction and that is why contradictory Jhuggi numbers was given in his undated Application (Annexure-R) and further on re-survey it was found that the Jhuggi No. G-65 was found to by lying locked and further the Appellant/Claimant was not found to be living there.

16. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not living in the double storey Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and accordingly he is not entitled to claim alternative allotment against the said double storey Jhuggi from DDA as per the policy guidelines issued by DDA.

17. Now we shall first appraise the material placed on file to determine the eligibility of Appellant/ Claimant on other parameters as to whether the Appellant/ Claimant was having all the requisite documents, including a Valid Voter ID Card, on the cutoff date of 01.01.2015 and whether his name appears in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause

30.10.2024 Rawat 30/10/2024 30/10/2024

2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the said double storey Jhuggi No. G-65 as per the policy guidelines issued by DDA.

18. The Appellant/ Claimant has stated that his claim has been wrongly rejected by DDA. The Appellant/ Claimant has tendered documents, Annexure-A to Annexure-S, in support of his claim and prayed that DDA be directed to make allotment in his favour.

19. It is argued on behalf of DDA that Part–B Para 10 of "The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers of JJ Rehabilitation and Relocation Policy" provides that if a different family, having separate Ration Card issued prior to 01.01.2015, which fulfills all the other eligibility criteria, is living on upper floor, the same will also be considered for allotment of a separate dwelling units. Accordingly, for claiming allotment against first floor the dweller is required to have a separate Ration Card on the cutoff date of 01.01.2015. In the present appeal the Appellant/ Claimant has claimed allotment against the upper floor but she is not having a separate Ration Card on the cutoff date of 01.01.2015. Thus the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was not having a Voter ID Card & a separate Ration Card on the cutoff date of 01.01.2015 and further his name also does not appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey. Accordingly, there is no illegality in the impugned rejection order bearing No. 350/Fresh/133 dated 01.07.2023.

20. First of all, we shall discuss the legal position under the DDA policy. The Part-B of the Delhi Slum and JJ Rehabilitation and Relocation Policy 2015 adopted by DDA is reproduced as under:

> **"Part-B**
> **<u>The eligibility criteria for allotment of alternative dwelling units to rehabilitation and relocate JJ dwellers would be as under :-</u>**
>
> 1. The JJ dwellers must be a citizen of India and not less than 18 years of age.
> 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.

30.10.2024 S/Mawat 30/10/2024 30/10/2024

5. The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by other mechanism.
6. JJ dwellers must possess any one of the 12 documents issued before 01-01-2015 as prescribed in the subsequent para.
7. Neither the JJ dweller nor any of his/her family members should own any house/plot /flat in full or in part, in Delhi. The JJ dweller should not have been any house allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Department or Agencies of GNCTD of Govt. of India, either in his/her own name or in the name of any member of his/her family.
8. No dwelling unit shall be allotted if the jhuggi is used solely for commercial purpose.
9. In case, the Jhuggi being used for both residential and commercial purposes can be considered allotment of one residential plot only. In case, the ground floor of the Jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle him for one residential plot only, if such commercial and residential unit is occupied by the same person.
10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units.
11. The ineligible JJ dwellers will be removed from the JJ cluster at the time of its rehabilitation /relocation/clearance of JJ Basti.

<u>As envisaged in para above, the JJ dwellers must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of dwelling units:</u>

- Passport.
- Ration Card with photograph.
- Electricity Bill
- Driving License.
- Identity Card/Smart Card with photograph issued by state/central Government and /or its autonomous bodies/agencies like PSU/Local Bodies.
- Passbook issued by public sector Bank/Post Office with photograph.
- SC/ST/OBC certificates issued by Competent Authority with photograph.
- Pension documents with photograph such as Ex-servicemen's pension book, Pension payment order, Ex-servicemen's widow/dependent certificate, old age pension order or widow pension order.
- Freedom fighter identity card with photograph.
- Certificate of physical handicapped with photograph issued by Competent Authority.
- Health Insurance Scheme Smart Card with photograph (Ministry of Labour's Scheme).
- Identity Card with Photograph issued in the name of descendants of the slum/JJ dwellers from Govt. School or certificate with photograph issued by

30.10.2024 Rawat 30/10/2024 30/10/2024

the Principal of a Govt. School mentioning therein that the descendants of the JJ dwellers was the student of the School."

21. It is mandated that there is verification in terms of biometric authentication via Aadhaar card or other mechanism, along with possession of one of 12 specified documents issued before 01.01.2015. It is further stipulated that the name of the JJ dwellers must appear in the survey conducted by LM department and further the applicants should not own property in Delhi or have been allocated residential units by Government of National Capital of Delhi or the Government of India. Moreover, the commercial use of a Jhuggi precludes dwelling unit allocation, while mixed residential-commercial use entitles dwellers to one unit.

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS

22. As per Clause 1 (6) Part–B of DDA policy JJ dweller claiming allotment against a single storey Jhuggi (Ground Floor) must possess any one out of the 12 documents issued before 01.01.2015. The list of 12 documents has been prescribed in the subsequent Para in Clause 2. This list shows that the Ration Card is not prescribed to be a single mandatory document but it is one of those 12 documents. The dweller may have any one of the documents out of the list of 12 documents issued before 01.01.2015 and accordingly ration card is one of those 12 documents. Therefore, the dweller, who may or may not have ration card, will still be eligible for alternative allotment if he possesses any one of the documents out of the list of 12 documents.

23. Thus the legal position which emerges out is that for claiming alternative allotment against the **ground floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS

24. As already pointed out above, condition contained in Clause 1 (10) of Part–B of DDA policy runs as under:

30.10.2024 30/10/2024 30/10/2024

"10. If a different family, having separate Ration Card issued prior to 01-01-2015, which fulfills all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling units."

25. Thus Clause 1 (10) of Part–B of the DDA policy makes the requirement of having a separate ration card, being a single mandatory document, must for the dweller claiming alternative allotment against upper floor. Therefore, the dweller, who is not having separate ration card, will not be eligible for allotment even if he possesses any one of the documents out of the list of 12 documents.

26. Thus the legal position which emerges out is that for claiming alternative allotment against the **first floor** under the DDA Policy the JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least one of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

DIFFERENT CRITERION FOR GROUND FLOOR & FIRST FLOOR

27. As already pointed out above different criterion has been provided in the DDA policy for the JJ dwellers claiming alternative allotment against the ground & first floors because the dweller, who is claiming alternative allotment against the ground floor, has been given an option to have any one out of the 12 documents (including a ration card) issued before 01.01.2015 whereas it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015. There is no doubt that the dwelling units on ground floor & upper floor are required to be treated equally and not differently and accordingly ground floor & upper floor cannot have different eligibility criteria including the requirement of the documents issued before 01.01.2015. As per DDA policy, Ration Card is not a mandatory document for the dwellers claiming alternative allotment against the ground floor and therefore on the same analogy it cannot be made mandatory for the dwellers claiming alternative allotment against the upper floor. Thus the dwellers claiming alternative allotment against the ground floor or

30.10.2024 30/10/2024 30/10/2024

against the first floor are required to be treated on parity irrespective of the fact whether they are claiming alternative allotment from DDA against the ground floor or upper floor.

28. It is not out of context to point out that this Appellate Authority had decided the Appeals pertaining to Kathputli Colony in two phases in addition to the appeals pertaining to Bhoomiheen Camp, Kalkaji. In the first phase of Kathputli Colony we have decided 659 appeals thereby rejecting 560 appeals whereas 99 appeals were allowed thereby taking a stand that Ration Card cannot be treated as mandatory documents for claiming allotment against the first floor. Several orders were challenged before Hon'ble High Court of Delhi whereby all the orders passed by the Appellate Authority were upheld but the legal aspect with regard to separate ration card being a mandatory document for the upper floor was not discussed. Therefore, subsequently this Appellate Authority had changed its view by taking a conservative approach on the requirement of separate ration card for upper floor while deciding 735 appeals pertaining to Bhoomiheen Camp, Kalkaji from 01.12.2022 to 27.09.2023 thereby rejecting 680 appeals whereas 55 appeals were allowed and further this Appellate Authority had received 266 appeals on 27.10.2023 pertaining to Kathputli Colony in the second phases and it had decided 105 appeals up to 29.02.2024 thereby rejecting 99 appeals whereas 06 appeals were allowed.

FIRST PHASE WITH EFFECT FROM 29.02.2024 TO 28.05.2024

29. However, thereafter the legality of requirement of separate Ration Card as a mandatory document for the dwellers claiming alternative allotment from DDA against the first floor under the DDA policy of 2015 was fact-in-issue before the single bench of Hon'ble High Court of Delhi in the case of **"Mohammad Hakim and Another versus Delhi Development Authority"** in "W.P. (C) 1585/2022 & CM Appeal 4515/2022 AND W.P. (C) 2514/2022", which was decided on 29th February, 2024.

30. The Hon'ble High Court of Delhi in Mohammad Hakim's case (supra) had discussed the concept of Ration Card and the aim of issuing the same. It is held that the term "Ration Card" has been defined in Section 2 (16) of National Food Security Act, 2013 as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System. Hence, as per the definition of the Ration Card, the intent of issuing the same is that it aims to distribute the essential food items by way of the fair price shops. Therefore, it does not

30.10.2024 30/10/2023

amount to become an identity proof of residence for any Ration Card holder. Furthermore, the Para 4(6) of Gazette Notification No. G.S.R. 213(E) dated 20th March 2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution disallows the use of ration card as a document of identity or proof of residence.

31. It is further held in Mohammad Hakim's case (supra) that ration card is issued exclusively for obtaining essential commodities from shops under the public distribution system and cannot be considered as proof of address or residence. Moreover, there is no mechanism set up by the authority issuing Ration Cards to ensure that the holder of the ration card is staying at the address mentioned in the ration card. The aim of the ration card is to ensure that the citizens of this country are provided food grains at a reasonable price. Hence, it is not a reliable source of proof of address since the scope is limited to distribution of food items by way of Public Distribution System. Therefore, DDA has wrongly put reliance on the ration card as proof of address since it did not take into consideration the aforesaid discussed Gazette Notification, definition of ration card as well as the intent behind issuance of the same.

32. It is further held in Mohammad Hakim's case (supra) that rations cards have a State-wise ceiling of number of eligible households for which the ration card can be issued by various States. Since, Delhi's limits for issuance of ration card has already been exhausted, therefore, even if a person is eligible to be issued ration card, he/she shall not be issued the same. Keeping in mind all the relevant circumstances, it was held that mere non-issuance of a ration card cannot be a ground for denial of the alternative allotment to the eligible persons. The mandatory requirement of separate ration card is very arbitrary since it cannot be used as an address proof as directed by way of the aforesaid Gazette Notification. Therefore, it was held that the requirement of a ration card as mandatory document to be produced before DDA as a proof to claim that first floor of the Jhuggi is a separate dwelling unit is arbitrary and illegal. Further, DDA should have exercised due caution and care before adhering to such a requirement and it should take a fair and realistic view of the circumstances before it. The aforesaid actions on part of DDA is in clear violation of the petitioners right to shelter as enshrined under Article 21 of the Constitution of India and reiterated by the Division Bench of Hon'ble High Court of Delhi in "Udal v. Delhi urban Shelter Improvement Board and others" 2017 SCC OnLine Del 9715.

30.10.2024 30/10/2024 30/10/2024

33. It is further held in Mohammad Hakim's case (supra) that the impugned orders passed by the Nodal Officer proceeded to set aside the Appellate Authority's order, raising questions regarding the authority's jurisdiction over *quasi-judicial* matters already adjudicated upon by the Appellate Authority. This aforesaid act of the Nodal Officer of the respondent/DDA underscores the need for a judicious examination of the competing claims, the weight of evidence presented, and the propriety of actions taken by authorities. Accordingly, the impugned orders passed in both the writ petitions were set side thereby holding that the DDA Policy, 2015 (PART-B) as per Clause (1)(x) has wrongly mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis but any one of the 12 documents issued before the cutoff date, i.e., 01.01.2015 as enlisted in Clause 2 of the policy has to be considered. Hence, it was held that the DDA Policy, 2015 (PART-B) wrongly made it compulsory that the first floor dwellers of the Jhuggis shall have a separate Ration Card. The Hon'ble single bench of High Court of Delhi vide its Judgment dated 29th February, 2024 in W.P. (C) 1585/2022 had disposed of the writ petition with directions to DDA to allocate alternative dwelling units in favour of the petitioners' subject to the condition that the petitioners produce the documents as enunciated in Clause 2 of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy") issued before the cut-off date, i.e., 01st January, 2015.

34. In the light of judgment in Mohammad Hakim's case (supra) the disparity has been removed and the JJ dwellers claiming alternative allotment against the ground floor as well as against the upper floor are treated equally and at par with no discrimination as far as the eligibility criterion and set of required documents are concerned. Thus same criterion/parameters have to be followed irrespective of the facts whether the JJ dwellers are claiming alternative allotment against the ground floor or against the first floor.

35. It is pointed out that in the light of judgment dated 29th February, 2024 passed by the single bench of the Hon'ble High Court of Delhi in W.P. (C) 1585/2022 in Mohammad Hakim's case (supra) we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar with effect from 01.03.2024 thereby holding that for claiming allotment against the ground floor or first floor the JJ dwellers must be a citizen of India and not less than 18

30.10.2024 30/10/2024 30/10/2024

years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

SECOND PHASE WITH EFFECT FROM 28.05.2024 TILL TODAY

36. Thereafter, DDA has filed Latent Patent Appeal 444/2024 titled **"Delhi Development Authority versus Mohammad Hakim & Anr"** before the double bench of the Hon'ble High Court of Delhi thereby challenging the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 and vide order dated 28th May, 2024 the LPA has been fixed for 09th September, 2024 for filing of rejoinder affidavit by the respondents with the directions that **"Till further orders, there shall be stay of the impugned judgment".**

37. Since the operation of the Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed vide order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024, therefore, the legal position, which emerges out is that after passing of order dated 28th May, 2024 the Clause (1)(x) of Delhi Slum & JJ Rehabilitation and Relocation Policy, 2016 (Part-B) ("rehabilitation policy"), which has mandated that for rehabilitation of the dwellers of the first floor of the Jhuggi there shall be a compulsory separate ration card issued in the name of the dwellers of the first floor of the Jhuggis, is perfectly legal & applicable to determine their eligibility.

38. There is no doubt that from 29.02.2024 (the date on which Judgment dated 29th February, 2024 was passed by the single bench of Hon'ble High Court of Delhi in W.P. (C) 1585/2022) to 28.05.2024 (the date on which order dated 28th May, 2024 was passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024) this Appellate Authority has followed the law laid down in the authority in Mohammad Hakim's case (supra) and we have decided 79 appeals pertaining to the Kathputli Colony and out of which 16 were allowed and further we have also decided 33 appeals pertaining to the Jailorwala Bagh, Ashok Vihar thereby holding that for claiming alternative allotment against the ground floor or first floor, the JJ dwellers must be a citizen of India and not less than 18 years of age and further he must have a Voter ID Card & also that the name of JJ dwellers must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also

30.10.2024 30/10/2024 30/10/2024

in the year of survey and he must also possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015.

39. But in the light of order dated 28th May, 2024 passed by the double bench of Hon'ble High Court of Delhi in Latent Patent Appeal 444/2024 whereby the operation of the impugned Judgment dated 29th February, 2024 passed by the single bench in W.P. (C) 1585/2022 has been stayed, the requirements for claiming alternative allotment against the ground floor and upper floor is required to be reconsidered as it was prevalent in the pre-period of Judgment dated 29th February, 2024 and accordingly it shall be as under: -

GROUND FLOOR (SINGLE STOREY JHUGGI) - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

40. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess any one out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015. Therefore, it is not mandatory for the dweller, who is claiming alternative allotment against the ground floor, to have a ration card issued before the cutoff date of 01.01.2015.

FIRST FLOOR - REQUIREMNET OF DOCUMENTS – post 28th May, 2024

41. The JJ dwellers must be a citizen of India and not less than 18 years of age and he/she must also possess a Voter ID Card on the cutoff date of 01.01.2015 and further his/her name must appear in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and further, he/she must possess a separate ration card issued before 01.01.2015. Therefore, it is mandatory for the dweller, who is claiming alternative allotment against the upper floor, to have a separate ration card issued before the cutoff date of 01.01.2015.

42. Now in the light of our discussion above, we shall determine the eligibility of the present Appellant/Claimant as per the policy guidelines issued by DDA.

43. It is pointed out that we have already held the Appellant/Claimant was not living in the double storey Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 and accordingly he is not entitled to claim alternative allotment against the said double

30.10.2024 30/10/2024 30/10/2024

storey Jhuggi from DDA as per the policy guidelines issued by DDA but despite that the Appellant/Claimant has claimed alternative allotment from DDA against the said double storey Jhuggi. Accordingly, we have no hesitation in holding that the parameters for the ground floor shall be applicable to determine the eligibility of the Appellant/ Claimant.

44. Now we shall appraise the material placed on file to determine the eligibility of the Appellant/ Claimant as to whether the Appellant/ Claimant was having all the requisite documents, including a Voter ID Card, on the cutoff date of 01.01.2015 and further whether his name appears in any of the Voter List of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & of the year of survey and whether the Appellant/ Claimant was having "any one" out of the 12 documents issued before 01.01.2015 as enlisted in Clause 2 of the DDA policy, 2015 and whether he is entitled to claim allotment against the double storey Jhuggi No. G-65 as per the policy guidelines issued by DDA.

45. The Appellant/Claimant has tendered his two Voter ID Cards (Annexure-A & Annexure-B), Aadhar Card (Annexure-C), PAN Card (Annexure-D), the Passbook of PNB (Annexure-E) and Electricity Bill (Annexure-F), the Letter F. No. AERO/AC-17/2024/210 dated 11.07.2024 (Annexure-G) of AERO, AC-17, Wazirpur, Voter List of the year 2012 (Annexure-H), Voter List of the year 2013 (Annexure-I), Voter List of the year 2014 (Annexure-J) and Voter List of the year 2015 (Annexure-K), the Letter F. No. AERO/AC-17/2024/216 dated 11.07.2024 (Annexure-L) of AERO, AC-17, Wazirpur, Voter List of the year 2022 (Annexure-M), Voter List of the year 2023 (Annexure-N) and Voter List of the year 2024 (Annexure-O) in support of his claim.

46. It is pointed out that the Appellant/Claimant Ram Ashish has tendered two Voter ID Cards (Annexure-A & Annexure-B). The first Voter ID Card No. JPF 0682914 (Annexure-A) has been issued on 09.06.2002, much prior to the cutoff date of 01.01.2015 but in this document "the name of the card holder & father's name" are recorded to be "Ram Shashi S/o Savan Dev". Here it is pertinent to point out that the Appellant/Claimant Ram Ashish has nowhere stated that he is also known by the name of Ram Shashi.

47. Furthermore, the Appellant/Claimant has tendered his Aadhar Card No. 7637 0343 1591 (Annexure-C) and it has been issued on 15.10.2020, much after the cutoff date of 01.01.2015. Further in the Aadhar Card (Annexure-C) and in the Pan Card (Annexure-D) the name is recorded to be "Ram Ashish S/o Shawan Dev". But as already pointed out above, in the Voter ID Card No. JPF 0682914 (Annexure-A) "the name of the card holder & father's

30.10.2024 Rawat 30/10/2024 30/10/2024

name" are recorded to be "Ram Shashi S/o Savan Dev". Here it is pertinent to point out that the Appellant/Claimant Ram Ashish has nowhere stated that he is also known by the name of Ram Shashi. But very interestingly, the matter about giving different names did not stop here because in the Letter dated 11.07.2024 (Annexure-G) of AERO, AC-17, Wazirpur as well as in the Voter List of the years 2012 to 2015 (Annexure-H to Annexure-K) altogether new name "Ram Sita". It is not explained as to how the name "Ram Sita" has appeared out of the blue and this creates doubt & suspicion.

48. It is pointed out that the Letter F. No. AERO/AC-17/2024/210 dated 11.07.2024 (Annexure-G) of AERO, AC-17, Wazirpur shows that as per the records of the Election Commission Voter ID Card No. JPF 0682914 (Annexure-A) pertains to "Ram Sita" and it is a valid document and further this Voter ID Card No. JPF 0682914 (Annexure-A) is reflected in the Voter List of the years from 2012 to 2015. It is also pointed out that the name "Ram Sita" appears at SL. No. 115 in Voter List of the year 2012 (Annexure-H), at Sl. No. 115 in the Voter List of the year 2013 (Annexure-I), at Sl. No. 133 in the Voter List of the year 2014 (Annexure-J) and at Sl. No. 146 in the Voter List of the year 2015 (Annexure-K) and in all the Voter Lists (Annexure-H to Annexure-K), the number of the Voter ID Card is mentioned to be JPF 0682914 (Annexure-A). Here it is pertinent to point out that the Appellant/Claimant Ram Ashish has nowhere stated that he is also known by the name of "Ram Sita".

49. Moreover, the Appellant/Claimant has also failed to explain as to how in the first Voter ID Card No. JPF 0682914 dated 09.06.2002 (Annexure-A) the name is recorded to be "Ram Shashi" but in the the Voter Lists (Annexure-H to Annexure-K) the name is recorded to be "Ram Sita" even though in all these Voter lists the number of the Voter ID Card is mentioned to be bearing number JPF 0682914. This creates doubt & suspicion even though all the above-mentioned documents (Annexure-A & Annexure-H to Annexure-K) the address of the Appellant/Claimant is mentioned to be Jhuggi No. G-65. But merely mentioning Jhuggi No. G-65 in the above-mentioned documents does not create any right, title & interest in favour of the Appellant/Claimant when he himself had given contradictory numbers of Jhuggi in his un-date application (Annexure-R) and in these documents the different names, namely, "Ram Shashi", "Ram Sita" & "Ram Ashish" and even with different name of father, namely, "Savan Dev", "Sam Dev" & "Shawan Dev" are given with no explanation whatsoever as to why different names have been given and further the Appellant/Claimant has not provided any documentary proof of getting the name changed for himself and his father. The possibility of these persons "Ram Shashi", "Ram Sita" & "Ram Ashish" being different

30.10.2024 30/10/2024 30/10/2024

persons cannot be ruled out especially when the Appellant/Claimant has nowhere stated that he was having different names at different point of time and further he is silent as to when he got the names changed in various documents. There is nothing to suggest that "Ram Shashi", "Ram Sita" & "Ram Ashish" are one and the same person and it pertains to the present Appellant/Claimant.

50. As pointed out above, in the Voter ID Card No. JPF 0682914 dated 09.06.2002 (Annexure-A) "the name & father's name" are recorded to be "Ram Shashi S/o Savan Dev" but very surprisingly in the Letter dated 11.07.2024 (Annexure-G) of AERO, AC-17, Wazirpur and in the Voter Lists (Annexure-H to Annexure-K) there is reference of the Voter ID Card No. JPF 0682914 but the name is mentioned to be "Ram Sita" and it is not satisfactorily explained how the name can be changed to "Ram Sita" when in the Voter ID Card No. JPF 0682914 dated 09.06.2002 (Annexure-A) the name is recorded to be "Ram Shashi" and it creates doubt & suspicion.

51. Furthermore, mentioning different names even did not stop here because the Appellant/Claimant has tendered the Passbook of PNB (Annexure-E) and Electricity Bill (Annexure-F) in support of his claim and in these documents also different names have been given. It is pointed out that the passbook of PNB (Annexure-E) shows that account was opened the account on 21.02.2023, much after the cutoff date of 01.01.2015 and in this document the name is mentioned to be "Ram Ashish S/o Shawan Dev". The Electricity Bill (Annexure-F) shows that the electricity connection was taken on 06.03.2009, much prior to the cutoff date 01.01.2015 and in this document the name is mentioned to be "Ram Shashi S/o Savan Dev". This again creates doubt & suspicion.

52. Now we come to the second Voter ID Card (Annexure-B) and the Letter dated 11.07.2024 (Annexure-L) of AERO, AC-17, Wazirpur, Voter List of the year 2022 (Annexure-M), Voter List of the year 2023 (Annexure-N) and Voter List of the year 2024 (Annexure-O) tendered by the Appellant/Claimant.

53. The Appellant/Claimant has tendered the second Voter ID Card (Annexure-B) and it is bearing number WHC 3551215 and it has been issued on 31.08.2020, much after the cutoff date 01.01.2015 but in this document "the name of the card holder & father's name" are recorded to be "Ram Ashish S/o Sam Dev" and not "Ram Ashish S/o Shawan Dev". Further, the Letter F. No. AERO/AC-17/2024/216 dated 11.07.2024 (Annexure-L) of AERO, AC-17, Wazirpur verifies that Voter ID Card No. WHC 3551215 (Annexure-B) of the

30.10.2024 Rawat 30/10/2024 30/10/2024

Appellant/Claimant is a valid document as per the records of the Election Commission and furthermore, this Voter ID Card No. WHC 3551215 (Annexure-B) has been reflected in the Voter List of the years 2022, 2023 & 2024. It is also pointed out that the name "Ram Ashish S/o Sam Dev" appears at Sl. No. 174 in the Voter List of the year 2022 (Annexure-M), at Sl. No. 177 in the Voter List of the year 2023 (Annexure-N) and at Sl. No. 191 in the Voter List of the year 2024 (Annexure-O)." It is pointed out that the Appellant/Claimant has no where stated that the name of his father is "Sam Dev". However, it is pointed out that the documents (Annexure-B and Annexure-M to Annexure-O) are not relevant because all these documents pertain to the post cutoff date of 01.01.2015.

54. Moreover, the Appellant/Claimant has also failed to explain as to how in the second Voter ID Card No. WHC 3551215 dated 31.08.2020 (Annexure-B) & in the Voter Lists (Annexure-M to Annexure-O) the name of his father is wrongly recorded to be "Sam Dev". Here it is pertinent to point out that the Appellant/Claimant Ram Ashish has nowhere stated that his father "Shawan Dev" is also known by the name of "Sam Dev". This creates doubt & suspicion even though all the above-mentioned documents (Annexure-B & Annexure-M to Annexure-O) the address of the Appellant/Claimant is mentioned to be Jhuggi No. G-65. But merely mentioning Jhuggi No. G-65 in the above-mentioned documents does not create any right, title & interest in favour of the Appellant/Claimant when he himself had given contradictory numbers of Jhuggi in his un-date application (Annexure-R) and in the documents tendered by him the different names, namely, "Ram Shashi", "Ram Sita" & "Ram Ashish" and even with different name of father, namely, "Savan Dev", "Sam Dev" & "Shawan Dev" are given with no explanation whatsoever as to why different names have been given and further the Appellant/Claimant has not provided any documentary proof of getting the name changed for himself and his father. The possibility of these persons "Ram Shashi", "Ram Sita" & "Ram Ashish" being different persons cannot be ruled out especially when the Appellant/Claimant has nowhere stated that he was having different names at different point of time and further he is silent as to when he got the names changed in various documents. There is nothing to suggest that "Ram Shashi", "Ram Sita" & "Ram Ashish" are one and the same person and it pertains to the present Appellant/Claimant and further there is also nothing to suggest that "Savan Dev", "Sam Dev" & "Shawan Dev" are one and the same person and it pertains to the father of the present Appellant/Claimant.

55. As already pointed out above the Appellant / Claimant had not promptly made the

30.10.2024 30/10/2024 30/10/2024

representation to claim allotment from DDA against the Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar for the reasons best known to him and this creates doubt & suspicion. It seems that as a result and after thought the Appellant/Claimant had made an un-dated Application for Re-survey (Annexure-R) thereby alleging that he is living in Jhuggi No. G-65, Jailorwala Bagh and his name does not appear in the list and accordingly it was requested that his Jhuggi be got surveyed. Here it is pertinent to point out that under the "Name of Applicant & Address" given in the said Application (Annexure-R) his address is mentioned to be Jhuggi No. G-64, Jailorwala Bagh and furthermore, the date, month & year of making of application is not mentioned. This creates doubt & suspicion with regard to the number of Jhuggi regarding which he is claiming allotment from DDA because two contradictory numbers of Jhuggi are given in the said Application (Annexure-R). Furthermore, in this Application for Re-survey (Annexure-R) the Appellant/Claimant has mentioned that his Voter ID Card bears number WHC 3552215 but he has not disclosed that he was also having another Voter ID Card bearing number JPF 0682914 dated 09.06.2002, which has been later on placed on record as Annexure-A before us because had this Voter ID Card belonged to him then this fact would have been certainly mentioned by him in his Application (Annexure-R). Here it is also pointed out that in the EDC Note dated 16.12.2002 (Annexure-Q) there is reference that the Voter ID Card No. WHC 3272846 submitted by the Appellant/Claimant has not been found to be valid document but the Appellant/Claimant has not tendered the said Voter ID Card No. WHC 3272846 on file before us because he very well knew that this Voter ID Card No. WHC 3272846 has been rightly found to be a forged & fabricated document. This creates doubt & suspicion and shows that he has tried to use forged & fabricated documents to grab allotment from DDA by hook or crook.

56. Therefore, we have no hesitation in holding that that the Appellant/Claimant was not living in the double storey Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 regarding which he is claiming allotment from DDA and further the Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 and further his name also does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) & also in the year of survey and accordingly, the Appellant/Claimant does not fulfill the eligibility criteria and accordingly he is not entitled to claim alternative allotment against the said double storey Jhuggi from DDA as per the policy guidelines issued by DDA.

30.10.2024 S/Rawat 30/10/2024 30/10/2024

57. The material placed before us also shows that the Eligibility Determination Committee (EDC) has examined and analysed the individual cases in accordance with the provisions laid down in the JJ rehabilitation policy/guidelines and followed the procedure prescribed in the policy in letter & spirit. The Eligibility Determination Committee has made specific recommendations thereby taking a decision in all the cases strictly accordingly to the merit of the individual case as per the material available in individual files of all the Applicants JJ dwellers and also after examining and scrutinizing all the available video clippings, which were recorded during the survey and considering the documents placed on file which were submitted by the JJ dwellers at the time of survey and at later stage.

58. The material placed on file shows that the Eligibility Determination Committee (EDC) has rightly found that the Appellant/ Claimant is not entitled to alternative allotment because as per our discussion above the present Appellant/Claimant was not having a Voter ID Card on the cutoff date of 01.01.2015 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 Appellant/Claimant was not living in the double storey Jhuggi No. G-65, Jailorwala Bagh, Ashok Vihar on the cutoff date of 01.01.2015 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. Moreover, the material placed on file shows that the Appellant/ Claimant had concealed material facts & had made misrepresentation to the DDA authority and succeeded in getting the survey conducted on the basis of wrong and false facts inspite of the fact that he very well knew that he did not possess requisite documents and does not fulfill the eligibility criteria as per the guidelines issued by DDA. The material placed on file shows that the Appellant/ Claimant with dishonest and fraudulent intention and also in collusion with his family members has tried to cheat & defraud DDA thereby filing a claim on wrong and false facts to maximize allotments from DDA by hook or crook. Thus the documents, Annexure-A to Annexure-S, furnished by the Appellant/ Claimant do not create any legal right, title and interest in his favour to make him eligible to seek allotment from DDA. Hence, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA and accordingly the claim of Appellant/Claimant was rightly rejected by EDC.

59. The Appellant/ Claimant has made misrepresentation and also futile attempt to suppress material facts. The Appellant/ Claimant does not fulfill the eligibility criteria as per guidelines

30.10.2024 Rawat 30/10/2024 30/10/2024

issued by DDA. Hence the Eligibility Determination Committee has rightly rejected his claim. There is no infirmity and illegality in the impugned order bearing No. 350/Fresh/133 dated 01.07.2023. Hence the same is upheld. Consequently, the present appeal is dismissed being devoid of any merit.

60. Copy of this order be supplied to both the parties as per rules within three days from the date of passing of this order. DDA is further directed to post this order on its website within one week from today in compliance of order dated 11.07.2018 passed by Hon'ble High Court of Delhi in WP(C) No. 6728/2018 and C.M. Appeal 25594/2018 titled "National Alliance of Peoples Movement & Others Vs Delhi Development Authority & Others". The file be consigned to records after due compliance.

30.10.2024 30/10/2024 30/10/2024

(Ranbir Singh) **(Satish Ahlawat)** **(Rachna Tiwary)**

Jt. Secretary (Retd.) GOI **Addl. District & Sessions Judge (Retd.)**

MEMBER **CHAIRMAN** **EXPERT MEMBER**