



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgement reserved on: 14 May 2025**  
**Judgement pronounced on: 30 May 2025**

+ **W.P.(C) 2785/2023 & CM APPL. 10752/2023**

**ARUN DAS**

...Petitioner

Through: Mr. Dilraj Singh Bhinder, Mr.  
 Sujoy Chatterjee, Mr.  
 Priyadarshi Banerjee, Ms.  
 Kavya Agrawal and Mr.  
 Rishabh, Advs.

versus

**DELHI DEVELOPMENT AUTHORITY & ANR.**

.Respondents

Through: Mr. Anuj Chaturvedi, Mr.  
 Harshita Maheshwari, Ms.  
 Richa Dhawan and Mr. Pawan  
 Karan Deo, Advs. for DUSIB.  
 Ms. Kritika Gupta and Ms.  
 Kamakshi Sehgal, Advs. for  
 DDA.

+ **W.P.(C) 2352/2023 & CM APPL. 8998/2023**

**MANGAL KARAN**

.....Petitioner

Through: Mr. Shantanu, Adv.

versus

**DELHI DEVELOPMENT AUTHORITY & ANR.**

.Respondents

Through: Mr. Anuj Chaturvedi, Ms.  
 Harshita Maheshwari and Ms.  
 Richa Dhawan, Mr. Rishi Kant  
 Singh and Mr. Manoj Jadly,  
 Advs. for DUSIB



Ms. Chand Chopra, Ms. Kritika Gupta, and Ms. Nehal Bhupatiraju, Advs. for DDA.

+ W.P.(C) 9038/2023

**RAHUL**

.....Petitioner

Through: Mr. Vivek Kumar Tandon, Ms. Prerna Tandon and Mr. Harshit S. Gahlot, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Rishi Kant Singh, Adv. For DUSIB.  
Ms. Kritika Gupta, Ms. Chand Chopra and Ms. Neha, Advs. for DDA.

+ W.P.(C) 6291/2023

**KASHMIR LAL**

.....Petitioner

Through: Mr. Vivek Kumar Tandon, Ms. Prerna Tandon and Ms. Kanika Rathore and Mr. Mayank Tiwari, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Rishi Kant Singh and Mr. Manoj Jadly, Advs. for DUSIB.  
Ms. Kritika Gupta, Ms. Chand Chopra and Ms. Neha Bhupatiraju, Advs. for DDA.

+ W.P.(C) 11015/2023

**MITHLESH**

.....Petitioner

Through: Mr. Kaoliangpou Kamei and Mr. Umesh Kumar, Adv.

versus



DELHI DEVELOPMENT AUTHORITY & ORS.

.....Respondents

Through: Mr. Rishi Kant Singh and Mr. Manoj Jadly, Advs. for DUSIB. Ms. Kritika Gupta, Ms. Chand Chopra and Ms. Neha Bhupatiraju, Advs. for DDA.

**CORAM:**

**HON'BLE MR. JUSTICE DHARMESH SHARMA**

### **J U D G M E N T**

1. This common judgment shall dispose of the aforementioned petitions, which have been filed by groups of petitioners, in each case, either individually or jointly, invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, 1950. The petitioners herein seek common reliefs, including a direction towards DDA<sup>1</sup> to suspend any further demolition activity, maintain *status quo* at the site, and refrain from physically evicting the petitioners from their respective *jhuggi jhodris* clusters, The petitioners also seek a direction to DUSIB<sup>2</sup> to conduct a proper and comprehensive survey of the affected residents and rehabilitate them in accordance with Delhi Slum & Jhuggi Jhopri Rehabilitation and Relocation Policy, 2015<sup>3</sup>.

2. The issues raised by the petitioners involve common questions of law arising from somewhat similar facts and circumstances. It has been acknowledged at the Bar by the learned counsel for the respective parties that the present matters pertain to two categories of cases: (i) where the appeals of the petitioners have been rejected on

<sup>1</sup> Delhi Development Authority

<sup>2</sup> Delhi Urban Shelter Improvement Board

<sup>3</sup> 2015 Policy



the ground that the respective jhuggi dwellers had not attained the age of majority as on the cut-off date i.e., 01.01.2015; and (ii) where the appeals of the petitioners have been rejected by the Appellate Authority on the ground that the respective jhuggi dwellers were found to be used exclusively for commercial activities in their jhuggis at the time of the survey, which was conducted in October 2019.

3. For the purposes of adjudication, qua the petitioners who were minors as on the cut-off date, i.e., 01.01.2015, **W.P.(C) No. 2785/2023**, titled *Arun Das v. Delhi Development Authority & Anr.*, has been treated as the lead matter. Qua the petitioners whose appeals were rejected by the Appellate Authority on the ground that the subject jhuggis were being utilized solely for commercial purposes at the time of the survey, **W.P.(C) No. 6291/2023**, titled *Kashmir Lal v. Government of NCT of Delhi & Anr.*, has been taken as the lead case. The particulars of the petitioners in the lead matters, as also in the other connected writ petitions forming part of this batch, are delineated in the tabular chart reproduced hereinbelow: -

**Table No. 1: - List of petitions and 6 petitioners, who were minors as on the cut-off date, i.e., 01.01.2015.**

S. No.	W.P.(C)	Petitioner No. & Name
1.	W.P.(C) 2785/2023 [1 petitioner]	Petitioner = Arun Das, Son of Pradeep Das, Resident of Jhuggi No. A-331, Bhoomiheen Camo, Kalkaji. South Delhi – 110019.
2.	W.P.(C) 2352/2023 [1 petitioner]	Petitioner = Mangal Karan, Son of Lakhan Karan, Resident of Jhuggi No. B-656G/G, Bhoomiheen Camp, Kalkaji, South Delhi – 110019.
3.	W.P.(C) 9038/2023 [1 petitioner]	Petitioner = Rahul, Son of Late Sh. Om Prakash, Resident of Jhuggi No. B-343, Bhoomiheen Camp, Kalkaji, South Delhi -110019



**Table No. 2: - Details of petitions and 8 petitioners, whose appeals were rejected by the Appellate Authority on the ground that the subject *jhuggis* were being utilized solely for commercial purposes at the time of the survey.**

S. No.	W.P.(C)	Petitioner No. & Name
1.	W.P.(C) 6291/2023 [1 petitioner]	Petitioner = Kashmir Lal, Son of Ram Singh, Resident of Jhuggi No. B-300, Bhoomiheen Camp, Kalkaji South Delhi-110019.
2.	W.P.(C) 11015/2023 [1 petitioner]	Petitioner = Mithlesh, Wife of Jagdish, Resident of Jhuggi No. D-152, Bhoomiheen Camp, Kalkaji South Delhi-110019.

### **BACKGROUND**

4. Briefly stated, W.P.(C) No. 2785/2023 has been instituted by the petitioner who, as per Paragraph 1(i)<sup>4</sup> of Part B of the 2015 Policy, had not attained the age of majority as on the cut-off date, i.e., 01.01.2015; whereas, W.P.(C) 6291/2023 has been preferred by the petitioner whose claim came to be rejected by the Appellate Authority on the ground that the subject *jhuggi* was found to be used solely for commercial activities, which is in contravention of Paragraph 1 (viii)<sup>5</sup> of Part B of the 2015 Policy. T

5. The common thread in both sets of petitions is that the petitioners, along with their respective family members, have claimed that they have been in continuous possession and occupation of their respective *jhuggi-jhopris* situated at a location commonly known as *Bhoomiheen Camp*, Govind Puri, Kalkaji, South Delhi – 110019, which is averred to be in existence since the early 1990s. The

<sup>4</sup> 1.(i) The JJ dweller must be a citizen of India and not less than 18 years of age.

<sup>5</sup> 1. (viii) No dwelling unit shall be allotted if the *jhuggi* is used solely for commercial purpose.



petitioners claim to be migrants from various States, including Uttar Pradesh, Bihar, and West Bengal, and are stated to be engaged in occupations such as factory labour, work at local shops, domestic help, and other forms of menial employment.

6. The grievance of the petitioners is that the proposed demolition of their *jhuggi-jhopris* by the DDA is arbitrary, illegal, and in contravention of the provisions of the 2015 Policy. It is contended that the said Policy contemplates *in-situ* rehabilitation of eligible *jhuggi* dwellers and lays down a comprehensive framework prescribing the procedure and criteria for determining such eligibility. The petitioners further assert that the 2015 Policy is a welfare-oriented measure framed with the objective of securing socio-economic justice for persons belonging to the Economically Weaker Sections<sup>6</sup> of society, and seeks to ensure their rehabilitation through the provision of alternative housing by the State in a structured and equitable manner.

7. The petitioners further contend that the DUSIB has been designated as the nodal agency for the implementation of the 2015 Policy, which unequivocally provides that JJ<sup>7</sup> bastis/camps that came into existence prior to 01.01.2006 shall not be subjected to demolition without the provision of alternative housing. It is further submitted that, in order to qualify for rehabilitation under the said Policy, the cut-off date for residence in the concerned *jhuggi* is stipulated as **01.01.2015**.

8. Reference is drawn to **Part B of the 2015 Policy**, which

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<sup>6</sup> EWS

<sup>7</sup> Jhuggi Jhopri



prescribes that a JJ dweller is required *to furnish any one of twelve specified documents*, issued prior to the cut-off date of 01.01.2015, as proof of eligibility. These documents include:

- (i) Passport;
- (ii) Ration Card with photograph;
- (iii) Electricity bill;
- (iv) Driving license;
- (v) Identity Card/Smart Card with photograph issued by a State/Central Government department or its autonomous bodies/agencies, such as PSUs or local bodies (excluding Electoral Photo Identity Card);
- (vi) Passbook with photograph issued by a public sector bank or post office;
- (vii) SC/ST/OBC certificate issued by the competent authority;
- (viii) Pension documents with photograph, such as Ex-Serviceman's Pension Book, Pension Payment Order, Ex-Serviceman widow/dependent certificate, old-age pension order, or widow pension order;
- (ix) Freedom Fighter Identity Card with photograph;
- (x) Certificate of physical disability with photograph issued by the competent authority;
- (xi) Smart Card with photograph issued under a Health Insurance Scheme of the Ministry of Labour; and
- (xii) Identity card or certificate with photograph issued by a government school Principal certifying that the



descendant of the JJ dweller is or was a student of the said school.

9. It is further submitted that **Part B of the 2015 Policy** lays down additional eligibility criteria *inter alia* requiring that: (i) the name of the JJ dweller must appear in at least one of the electoral rolls of the years 2012, 2013, 2014, or 2015, as well as in the electoral roll of the year in which the survey was conducted; (ii) the name of the JJ dweller must find mention in the Joint Survey carried out by DUSIB and the concerned Land-Ownning Agency<sup>8</sup>; and (iii) the JJ dweller must possess any one of the twelve prescribed documents issued prior to the cut-off date of 01.01.2015, among which the Ration Card with photograph and Electricity Bill are of particular evidentiary value. The Policy also contemplates that, in cases where a distinct family residing on the upper floor of a *jhuggi* possesses a separate ration card issued prior to 01.01.2015, such family shall also be considered eligible for allotment of an independent dwelling unit.

10. The petitioners in the present batch of writ petitions raise a twofold grievance. As reflected in *Table 1*, certain petitioners have been denied the benefit of rehabilitation and reallocation on the ground that they were minors as on the cut-off date, i.e., 01.01.2015, and were therefore held ineligible under the 2015 Policy. In contrast, the petitioners listed in *Table 2* have been declared ineligible on the premise that their respective *jhuggis* were being used solely for commercial purposes at the time of the survey.

11. It is, however, the petitioners' contention that such rejection is

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<sup>8</sup> LOA





flawed in the teeth of Paragraph 1(ix) of Part B of the 2015 Policy, which categorically provides that: *“In case the jhuggi is being used for both residential and commercial purposes, the JJ dweller can be considered for allotment of one dwelling unit. In case the ground floor of the jhuggi is being used for commercial purpose and other floors for residential purpose, that will entitle the JJ dweller for one dwelling unit.”* Accordingly, it is argued that mere commercial use, when not to the exclusion of residential use, ought not to disentitle the petitioner from being considered for rehabilitation.

12. The grievance of the petitioners, both *qua* those who were minors on the cut-off date and *qua* those whose *jhuggis* were allegedly used solely for commercial purposes, is that DUSIB has failed to discharge its statutory obligations under the 2015 Policy. It is contended that the surveys forming the basis of the impugned ineligibility determinations were conducted in violation of the “Protocol 2015,” by an obscure and unaccountable outsourced agency appointed by DDA.

13. It is further alleged that the DDA, by initiating steps for demolition of the JJ clusters and proceeding with physical eviction without affording due process or considering the petitioners' documentary evidence, is violating their constitutionally protected right to shelter. Such action is stated to be contrary to Article 19(1)(g), read with Article 21 of the Constitution of India, 1950, thereby compelling the petitioners to seek redress before this Court.

### **PART – I**

### **REJECTION OF PETITIONERS' APPEALS BY THE**



## APPELLATE AUTHORITY ON THE GROUND OF MINORITY AS ON THE CUT-OFF DATE

### STAND OF DUSIB

14. The DUSIB in its counter affidavit, filed through Mr. Rajeev Kumar Datta, Deputy, Director, Rehabilitation dated 13.04.2023 instead of offering para-wise reply to the allegations levelled in the W.P.(C) No. 2785/2023 and reserving their right to file a detailed counter reply, has taken a stand that although DUSIB is a statutory Board constituted in terms of provisions contained in DUSIB Act, 2010, which is an enactment of the Legislative Assembly of the NCTD<sup>9</sup>, and empowered to prepare a scheme for removal of JJ camps and resettlement of the residents, has referred to the proviso to sub-section (3) of Section 10 of the DUSIB Act, 2010, stating that the land in question where the JJ camps are located, fall under the jurisdiction of the Central Government & its agencies. It is stated that the process of removal and the resettlement is to be undertaken with the prior consent of the Central Government or the concerned organization. Subsection (3) of Section 10 of the DUSIB Act, 2010 is reproduced herein below: -

***“Removal and resettlement of jhuggi jhopri bastis:***

*10(3) The Board may, after prior consultation with the Government, cause any jhuggi jhopri basti to be removed and may resettle such residents thereof as may be eligible in accordance with the scheme prepared under sub-section (1), and it shall be the duty of the local authority having jurisdiction and of the police and of any other agency or department whose assistance the Board may require to co-operate with and render all reasonable assistance to the Board:*

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<sup>9</sup> National Capital Territory of Delhi



*Provided that where jhuggi jhopri basti is on the land belonging to the Central Government or any of its organizations, the process of removal and resettlement shall be undertaken with the prior consent of the Central Government or its organization concerned:*

*Provided further that such resettlement shall not be done in contravention of the provisions of the Delhi Development Act, 1957 (61 of 1957) and those of the Master Plan for Delhi or the zonal development plans prepared thereunder.”*

15. While DUSIB acknowledges that it is the designated nodal agency for the purposes of initiating the rehabilitation and relocation process under the 2015 Policy, it is submitted that in the present case, DDA, being the Land-Ownning Agency<sup>10</sup>, is the implementing authority for undertaking *in-situ* rehabilitation of the JJ dwellers concerned under the PMAY-HFA(U)<sup>11</sup>. Accordingly, it is the stand of DUSIB that it has no role in the sealing drive purportedly undertaken by the DDA, nor in the determination of eligibility for relocation or rehabilitation of the petitioners who have been found ineligible by the concerned authorities.

16. DUSIB further submits that it is an admitted position that the petitioner, as on the cut-off date of 01.01.2015, was a minor. In this regard, reliance is placed on Clause 1(ii) of Part B of the 2015 Policy, which stipulates that, for eligibility under the rehabilitation scheme, the applicant must have been residing in the *jhuggi* as on 01.01.2015. Furthermore, as per Clause 1(iii), the name of the JJ dweller must mandatorily appear in at least one of the voter lists for the years 2012, 2013, 2014 or 2015 (i.e., prior to 01.01.2015), as well as in the year of

<sup>10</sup> LOA

<sup>11</sup> Pradhan Mantri Awas Yojana – Housing for All (Urban)



the joint survey undertaken by the land-owning agency. In addition, reference is drawn to Clause 1(vii), which mandates that the beneficiary or any member of his/her family should not own a *pucca* house in any part of India in his/her own name or in the name of any family member, in consonance with the guidelines issued under the PMAY(U).

### **STAND OF DDA**

17. DDA, in its counter-affidavit dated 25.04.2023 filed through Mr. Prakash Chand, Deputy Director, in W.P.(C) 2785/2023, has taken preliminary objections, contending that the present writ petitions are liable to be dismissed *in limine*. It is asserted that the petitioner, during the course of proceedings before the Appellate Authority, candidly admitted that neither he nor any of his family members was in possession of a Ration Card bearing the address of the *jhuggi* in respect of which allotment of alternate accommodation is being sought. It is further stated that the petitioner has now attempted to rely upon a document styled as a Ration Card, annexed as Annexure 1 to the writ petition. However, the genuineness and authenticity of the said document cannot be examined in these writ proceedings, inasmuch as the same was never produced before the Eligibility Determination Committee<sup>12</sup> or the Appellate Authority, bodies constituted specifically for the purpose of scrutinising and verifying the documents submitted in support of claims for rehabilitation.

18. It is further averred that the petitioner has not furnished any cogent explanation for having withheld the said document from the

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<sup>12</sup> EDC



aforesaid authorities, despite having been afforded sufficient opportunity. The respondent submits that the petitioner was found ineligible for rehabilitation on the ground that he failed to submit essential documents, including a valid Voter Identity Card, in accordance with the stipulations laid down under the applicable rehabilitation policy.

19. As per the prevailing 2015 Policy, an applicant is required to produce at least one document from a specified set of documents, the details whereof have been extracted in Paragraph 8 of this judgment. It is mandated that such document(s) must have been issued prior to the cut-off date of 01.01.2015. It is the specific case of the respondents that the petitioner has failed to furnish any such qualifying document and is, therefore, not entitled to any relief in the present proceedings.

#### **LEGAL SUBMISSIONS ON BEHALF OF THE PETITIONERS**

20. Mr. Dilraj Singh, learned counsel appearing on behalf of the petitioner in W.P.(C) 2785/2023, submits that the present petition pertains to the category of claimants who were minors as on the cut-off date of 01.01.2015, as prescribed under the 2015 Policy. It is contended that the EDC had initially rejected the petitioner's claim on the ground that the Voter Identity Card submitted by him could not be verified.

21. It is further submitted that the name of the petitioner was duly reflected in the survey conducted by the DDA in the year 2019. In support of his claim for alternate allotment, the petitioner submitted a copy of his Voter Identity Card issued in 2017 and a copy of his Aadhaar Card. Upon scrutiny of the petitioner's documents, certain



deficiencies were observed, pursuant to which a call letter dated 21.11.2021 was issued to the petitioner, calling upon him to furnish the requisite documentation. Additionally, a public notice dated 14.03.2022 was issued by the DDA, notifying eligible dwellers of a verification camp scheduled from 21.03.2022 to 08.04.2022 at the DDA Site Office, Kalkaji, near the JJ Cluster Bhoomiheen Camp, thereby affording an additional opportunity for compliance.

22. As per the survey records, the *jhuggi* bearing No. A-331 was found to be a single-storey pucca structure. However, the petitioner failed to submit a valid Voter Identity Card or any other admissible document conforming to the eligibility criteria stipulated under the extant policy framework. Accordingly, the EDC rejected the petitioner's claim for allotment of an alternative dwelling unit. The Nodal Officer, Bhoomiheen Camp, duly communicated the rejection order vide Order No. 385/61121.G/1221 dated 07.11.2022. Aggrieved thereby, the petitioner preferred an appeal before the Appellate Authority. **Notably, as recorded in the appellate order dated 15.12.2022 (Annexure P-15, page 248), the sole ground for rejection was that the petitioner was a minor as on the prescribed cut-off date.**

23. Learned counsel took this Court through the relevant portion of the said order. It is further submitted that the petitioner was born on 15.07.1998 and had attained majority on 15.07.2016. Though his name did not appear in the voter lists preceding 2015 due to being underage, he was a major at the time of applying for the rehabilitation process. Learned counsel places reliance on the judgment in **Udal &**



**Ors. v. DDA & Ors.**<sup>13</sup> to submit that a holistic view must be taken and that the rigid requirement of appearance in the voter list preceding 2015 has been relaxed in cases where other supporting documentation establishes residence. The relevant portion relied by the learned counsel for the petitioner is reproduced herein below: -

*“39. 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.”*

24. In this context, learned Counsel for the petitioner has placed reliance on an Aadhaar Card issued in the year 2013, reflecting the petitioner’s residence at the *jhuggi* in question, as well as an electricity bill pertaining to the said *jhuggi*, issued in the name of the petitioner’s mother, which also predates the cut-off date of 01.01.2015. It is further submitted that none of the petitioner’s family members have staked any independent claim for rehabilitation in respect of the said *jhuggi*, and that the petitioner alone seeks to assert his individual claim for allotment based on continuous residence and documentary evidence.

25. It is further contended by the learned Counsel for the petitioner

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<sup>13</sup> 2017 SCC OnLine Del 9715





that the petitioner was not afforded a reasonable and fair opportunity to present his case, and that the material placed on record was not duly appreciated in light of the petitioner's familial and factual context. It is submitted that the cut-off date, i.e., 01.01.2015, as stipulated under the 2015 Policy, pertains solely to the criterion of residence/existence at the relevant JJ basti. It is further argued that even as per the DDA's own interpretation, the said cut-off date is to be construed exclusively for the purpose of establishing residence at the *jhuggi*, and not necessarily for determining the age of the applicant as on that date.

26. Learned Counsel submits that the petitioner's residence at the JJ basti prior to the cut-off date may be substantiated by (i) furnishing any one of the twelve documents enumerated in Paragraph 8 of this judgment, and (ii) the Aadhaar Card. It is further contended that several of these documents are capable of being validly issued to, and possessed by, a person who was a minor as on the relevant date. In any event, it is submitted that the petitioner had attained the age of majority as on the date of submission of his application under the 2015 Policy.

27. Mr. Shantanu, learned counsel for the petitioner in W.P.(C) 2352/2023, submitted that the petitioner, at the age of approximately 14 years, migrated to Delhi in 2012 in search of livelihood and initially resided with his sister and brother-in-law at Jhuggi No. B-677, Bhoomiheen Camp, Govindpuri, Kalkaji, New Delhi. After securing employment as a driver and attaining financial independence at the age of 14, the petitioner shifted to Jhuggi No. B-656 within the same camp, which was owned by a distant relative from his native





village. Initially residing as a tenant on the first floor, the petitioner opened a savings account at the Central Bank of India on 29.09.2014, with the address of B-677, which corresponded to the verification address provided to his employer and was duly endorsed by the local police. It is contended that the petitioner has remained in continuous residence at the Bhoomiheen Camp since 2012.

28. It is further submitted that after initially residing at Jhuggi No. B-677, the petitioner moved to Jhuggi No. B-656 within the same Bhoomiheen Camp as a tenant under one Mr. Pradeep Karan. In due course, the petitioner updated the address on his bank passbook to reflect his residence at B-656, with assistance from his brother-in-law. Though the petitioner orally requested the bank to provide the date of application for the said address change, specifically to establish that it occurred prior to the cut-off date of 01.01.2015, such records were not made available.

29. The petitioner's case, in essence, is that he had been residing in the Bhoomiheen Camp prior to the cut-off date, and Jhuggi No. B-656 also existed prior to 01.01.2015. It is further submitted that there is no rival claimant to the said jhuggi. Although he began residing there as a tenant in 2014, the petitioner eventually purchased the said jhuggi from Mr. Pradeep Karan in March 2018 for a consideration of Rs. 3,00,000/-, using his savings along with financial assistance from family members. Post-purchase, he relocated his elderly parents to B-656, where he now resides on the ground floor, while his parents occupy the first floor.

30. It is emphasized that although the petitioner was a minor at the



relevant time, he was independently residing and earning a livelihood at the Bhoomiheen Camp. His relocation to Jhuggi No. B-656 occurred well before the cut-off date, and the subsequent change of address in his bank passbook, *albeit* undated, corroborates his long-standing residence at the said premises.

31. During the course of hearing learned counsels for the petitioners also vehemently urged that the relevant provisions of the 2015 Policy, specifically Part-B Clause 1(iv) and Part-A Clause 2(a)(iv), as well as the Draft Protocol-2015 have been followed. It was submitted that the 2015 Policy and Protocol-2015 were framed pursuant to the directions issued in **Ajay Maken v. Union of India**, dated 22.12.2015. It was vehemently contended that under the DUSIB Act, the DUSIB was designated as the Nodal Agency for implementation of the 2015 Policy read with the Protocol-2015. However, the respondent DDA allegedly sidelined DUSIB and did not involve it in the joint survey process. It was further pointed out that DUSIB, in its counter-affidavit, has expressly stated that it played no role in the sealing drive, in the determination of eligibility for rehabilitation, or in the actual rehabilitation of eligible JJ dwellers, and was not associated with the process of removal or resettlement undertaken by the DDA.

32. It was further submitted that, in terms of the applicable guidelines, it was the statutory obligation of DUSIB to oversee and ensure that *in-situ* rehabilitation of JJ dwellers is undertaken in accordance with the letter and spirit of the 2015 Policy, prior to any demolition activity by the land-owning agency, i.e., the DDA. However, contrary to this mandate, the respondent DDA is stated to



have unilaterally entrusted the task of conducting the survey of the identified JJ clusters to a private entity, Society for Promotion of Youth and Masses<sup>14</sup>, without providing any formal training to its personnel. It is alleged that the said outsourced agency carried out the survey in complete disregard of the prescribed guidelines.

33. It was submitted that although the survey data was ostensibly collected in October 2019, the record is conspicuously silent on the exact duration of the survey exercise and the specific dates and locations where public notices for conducting the survey were affixed. Attention was drawn to Clause B(vi), Point 6 of the Protocol-2015, which mandates that in the event of locked dwellings, a revisit by the joint survey team must be undertaken after a week. It is alleged that in several instances, the survey teams, comprising employees of SPYM, visited jhuggis when adult occupants were away for work and children were at school or tuition, resulting in erroneous conclusions regarding non-occupancy.

34. Learned counsel appearing for other petitioners in the batch of connected matters adopted the submissions advanced by Mr. Dilraj Singh and Mr. Shantanu, learned counsel for the petitioners in W.P.(C) 2785/2023 and W.P.(C) 2352/2023 respectively. It was urged that the rights of JJ dwellers are recognized under Clauses 4.2.3 and 4.2.3.1 of the Master Plan for Delhi 2021, which emphasizes the primacy of *in-situ* rehabilitation as the preferred mode of resettlement.

### **LEGAL SUBMISSIONS ON BEHALF OF DDA**

35. Ms. Kritika Gupta, learned counsel for the DDA has firstly

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<sup>14</sup> SPYM



emphasized that the present set of writ petitioners are not challenging the vires of the 2015 Policy. Rather, the core issue is whether the said policy has been duly and correctly applied by the DDA in each case. It is submitted that the cut-off date of **01.01.2015** holds paramount importance, as it is the date of reckoning for assessing the eligibility of jhuggi dwellers for relocation & rehabilitation. Clause 2(1) of the 2015 Policy clearly stipulates that any jhuggi dweller found to have occupied land in Delhi after the cut-off date of 01.01.2015 shall be removed without any notice, and no obligation shall lie on any land-owning agency of the State, including the DDA, to provide such person with rehabilitation. Accordingly, any document that has been issued or that evidences residence or occupation **after** the cut-off date is of **no consequence** under the policy and cannot be relied upon to claim eligibility

36. It is contended that DDA laid out the foundational framework underpinning the ongoing relocation and rehabilitation initiative. It was submitted that the exercise pertains to the removal of encroachments from Pockets A-1, A-2, and A-5 at Kalkaji Extension, New Delhi, comprising three JJ Clusters, namely, Jawaharlal Camp, Navjeevan Camp, and Bhoomiheen Camp. It was stated that approximately 8,461 households were identified across these clusters. Pursuant to the survey, 1,862 households were found eligible for rehabilitation and have since been relocated to EWS housing units constructed by DDA at A-14, Kalkaji Extension, upon payment of a nominal beneficiary contribution of Rs. 1,42,000/-, which includes Rs. 30,000/- towards five-year maintenance charges. It was further



submitted that a five-tier process was adopted by the DDA to ensure transparency and procedural fairness in the implementation of the 2015 Policy: -

- **Issuance of Notice of Survey:** In the first stage, public notice is issued to inform residents of the impending survey.
- **Conduct of Survey:** The survey is then carried out to document the existing jhuggi dwellers and their dwellings.
- **Post-Survey Awareness Camp:** After the survey, a public camp is organized to inform residents about the documents required to establish eligibility and how to submit them.
- **Claims and Objections Committee:** Jhuggi dwellers are afforded an opportunity to file claims and objections, including corrections to the survey data—such as rectifying name discrepancies or instances where their dwelling may have been inadvertently excluded from video documentation.
- **Eligibility Determining Committee (EDC):** Based on the material submitted, the EDC assesses the eligibility of each claimant.

37. It is submitted that any person aggrieved by the determination of the EDC is provided with the remedy of filing an appeal before the Appellate Authority constituted for this purpose. The existence of this comprehensive redressal mechanism, comprising the five-tier process of survey, awareness camp, claims and objections, scrutiny by the EDC, and appellate review, ensures that every jhuggi dweller is afforded an adequate and fair opportunity to establish their claim in accordance with the rehabilitation policy. It is further submitted that the petitioners, having availed of this mechanism, are bound by the outcome rendered as per the parameters of the policy. In several cases, it is stated, the entire process has been duly adhered to, yet upon detailed examination, the Appellate Authority has found the claimants



ineligible for rehabilitation due to non-fulfilment of the requisite eligibility criteria. As per the policy, a person seeking rehabilitation must satisfy the following conditions:

- Must have attained the age of 18 years as on the **cut-off date**, i.e., 01.01.2015;
- Must not be using the premises solely for **commercial purposes**;
- No other family member of the applicant should own or possess an alternative residence within the confines of the city.
- It is further submitted that, under the policy, the applicant must possess a valid voter ID and have their name reflected in the voter lists for the years **2012, 2013, 2014, and 2015**, as well as in the **year in which the survey was conducted**. The rationale behind this requirement is that the DDA is mandated to examine the applicant's **continuous existence** at the specific jhuggi location, consistent with the principles laid down in ***Sudama Singh v. GNCTD and Ajay Maken v. Union of India***.

38. It is further submitted that the underlying objective of the rehabilitation policy is to extend its benefits exclusively to those jhuggi dwellers who demonstrate *continuous and consistent residence* at the site in question. The policy does not envisage coverage for individuals with transient, sporadic, or irregular occupancy. Ms. Kritika Gupta, learned counsel for the DDA, submitted that the demolition of the remaining JJ clusters and the effective implementation of the rehabilitation scheme cannot proceed unless the present petitioners—who have been declared ineligible—are duly removed. It was contended that, in terms of the Explanation to Section 10(1) and the provisos to Section 10(3) of the DUSIB Act, 2010, the Central Government, acting through DDA as the LOA, is empowered to formulate and implement an independent scheme for eviction and resettlement of jhuggi dwellers, without the mandatory involvement of



DUSIB.

39. It is further submitted that the challenge raised in these petitions, insofar as it pertains to rejection by the Appellate Authority on the ground that the petitioner was a minor on the cut-off date, does not amount to a vires challenge to the policy itself. No steps were taken by the petitioners to assail the validity of the policy. It is submitted that in cases falling under the 'minor' category, there is no requirement to delve into the factual matrix or evaluate documentary evidence, as the policy unequivocally disqualifies individuals who were not majors on the prescribed cut-off date.

40. It is further stated that the petitioners falling within the 'minor' category have not made any specific factual averments in support of their claim. It is submitted that their decision to now individually seek consideration under the policy appears to be a conscious one, as the Appellate Authority had observed that had the parents or guardians of such minors participated in the survey process, they too would likely have been found ineligible for rehabilitation, owing to their inability to furnish the requisite documentation under the policy.

41. In relation to W.P.(C) 2785/2023, it is submitted by Ms. Kritika Gupta, learned counsel for the DDA, that the petitioner had relied on an electricity bill in the name of the mother, while neither parent possessed a ration card, and the father did not have a voter ID card. It is submitted that the Appellate Authority duly examined all documents submitted by the petitioner and found that the family lacked the requisite documentation under the policy. No explanation has been offered in the rejoinder as to why the parents have not come





forward in the proceedings, and notably, the petition does not raise a vires challenge to the policy itself.

42. It is submitted that a bare perusal of the '2015 Policy' reveals that, in order to qualify for rehabilitation, a JJ dweller must: (i) be a citizen of India; (ii) be not less than 18 years of age as on the cut-off date; (iii) be residing in a JJ basti that existed prior to 01.01.2006; (iv) be in continuous residence in the jhuggi as on the cut-off date of 01.01.2015; (v) have their name reflected in at least one of the voter lists of the years 2012, 2013, 2014, or 2015 (prior to 01.01.2015), as well as in the year of the survey; and (vi) possess any one of the 12 prescribed documents issued before 01.01.2015.

43. Lastly it is submitted that the petitioner does not fulfil these eligibility criteria. Admittedly, the petitioner in W.P.(C) 2785/2023, was a minor as on 01.01.2015, and therefore his name did not appear in the voter lists for the qualifying years. The petitioner's Voter ID Card (No. ARE2161313) was issued on 29.07.2017, well after the cut-off date. Furthermore, the petitioner has failed to produce any of the 12 documents required under the policy, issued prior to 01.01.2015. It is submitted that the documents placed on record by the petitioner are of no assistance in establishing a claim for rehabilitation, as they neither meet the policy requirements nor confer any independent right, title, or interest capable of compelling allotment by the DDA. Ms. Gupta concluded her submissions by stating that 607 jhuggis are protected under interim orders passed by this Court and placed





reliance upon **Sudama Singh v. Government of Delhi**<sup>15</sup>; **Ajay Maken v. Union of India**<sup>16</sup> and **Ram Bharose v. Delhi Urban Shelter Improvement Board**<sup>17</sup>.

## **PART II**

### **REJECTION OF PETITIONERS' APPEALS BY THE APPELLATE AUTHORITY ON THE GROUND THAT THE JHUGGI WAS SOLELY USED FOR COMMERCIAL PURPOSE**

#### **STAND OF DUSIB**

44. In its counter affidavit dated 06.06.2023, filed through Mr. Rajeev Kumar Datta, Deputy Director (Rehabilitation), the DUSIB, while refraining from furnishing a para-wise response to the averments made in W.P.(C) No. 6291/2023 and expressly reserving its right to submit a more detailed reply at a later stage, has reiterated the same position as previously adopted by it, namely, that the rejection of the petitioners' appeals was premised on the ground that they were minors as on the cut-off date prescribed under the 2015 Policy, which is reflect in Paragraph Nos. 14 to 16 of the present judgment.

#### **STAND OF THE DDA**

45. The counter affidavit dated 30.05.2023 filed in W.P.(C) No. 6219/2023 by Mr. Prakash Chand, Deputy Director, DDA, merits outright rejection. The petitioner had preferred an appeal in accordance with the 2015 Policy, which came to be dismissed on the ground that no alternative allotment could be granted where the concerned *jhuggi* was found to be in commercial use, a fact that stands

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<sup>15</sup> 2010 SCC OnLine Del 612

<sup>16</sup> 2019 SCC OnLine Del 7618

<sup>17</sup> 2023 SCC OnLine Del 998



corroborated by the petitioner's own admission before the Appellate Authority. The petitioner cannot now be permitted to circumvent the mandate of the said policy.

46. It is further contended that the present petition is liable to be dismissed *in limine*, inasmuch as the JJ dwellers were afforded multiple opportunities to furnish requisite documents and establish their bona fides for seeking rehabilitation from the DDA. The survey of the JJ cluster in question was conducted in October 2019, subsequent to which notices inviting claims and objections were affixed at conspicuous locations within the cluster, along with the corresponding survey list. Furthermore, a facilitation camp was organized at the DDA site office situated in proximity to the JJ cluster on 31.08.2020. All affected persons were duly requested to submit their claims within seven days from the date of publication of the notices at the site office, particularly in cases where their names were missing from the survey list or where discrepancies were noted. In view of the COVID-19 pandemic and the substantial volume of applications received, the deadline for submission of claims was extended up to 30.09.2020. Accordingly, the survey list was made available in the public domain as early as August 2020.

47. It is respectfully reiterated that the right to rehabilitation is not an absolute or enforceable constitutional right available to encroachers. Any entitlement to rehabilitation arises solely from and is governed by the applicable policy framework, which is required to be adhered to in letter and spirit. In the present case, the residents of Bhoomiheen Camp were afforded multiple opportunities to submit



their documents and claims; however, several among them failed to avail of such opportunities. The process adopted for hearing the appeals has been in accordance with due procedure, wherein the statements of the appellants have been recorded in a fair and transparent manner. During the appellate proceedings, the Appellate Authority duly examined all relevant survey reports and video recordings prepared during the survey, in the presence of the respective appellants.

**LEGAL SUBMISSIONS ON BEHALF OF THE PETITIONERS  
QUA THE USAGE OF THE JHUGGI FOR COMMERCIAL  
PURPOSES**

48. The petitioners, falling within the category whose appeals for alternative allotment were rejected, have advanced a common line of argument, namely, that the EDC erroneously rejected their claims on the ground that the respective *jhuggis* were being used for commercial purposes. Aggrieved by the said determination, the petitioners preferred appeals before the Appellate Authority. However, the Appellate Authority, upon due consideration of the material on record, upheld the decision of the EDC and affirmed that the *jhuggis* in question were indeed found to be used for commercial activities. Consequently, in terms of the 2015 Policy, the petitioners were rightly held to be ineligible for alternative allotment.

49. The petitioners have contended that the alleged commercial activity, as referred to by the DDA, pertains only to a limited portion of the respective *jhuggis*. It has further been urged that, in any event, the petitioners are entitled to the protection of their right to livelihood



as enshrined under Article 21 of the Constitution of India, 1950.

50. The petitioners have further submitted that the 2015 Policy expressly provides that in cases where a *jhuggi* is being used for both residential and commercial purposes, the occupant shall be entitled to an alternative residential allotment. In support of this contention, reliance has been placed upon Clause 1(ix) of Part B of the 2015 Policy, which reads as under: -

“In case, jhuggi is being used for both residential and commercial purposes, the JJ dweller can be considered for allotment of one unit. In case, the ground floor of the jhuggi is being used for commercial purposes and other floors for residential purposes that will entitle the JJ dwellers for one dwelling unit only.”

51. The petitioners have further submitted that the exercise of conducting a survey must be carried out with utmost diligence and a high degree of responsibility, bearing in mind the pressing and vulnerable circumstances of *jhuggi* dwellers and their urgent need for alternative accommodation. In this regard, reliance has been placed on the judgment of this Hon’ble Court in **Sudama Singh v. Government of NCT of Delhi**<sup>18</sup>, with the relevant portion being extracted hereinbelow: -

“58. It is not uncommon to find a jhuggi dweller, with the bulldozer at the doorstep, desperately trying to save whatever precious little belongings and documents they have, which could perhaps testify to the fact that the jhuggi dweller resided at that place. These documents are literally a matter of life for a jhuggi dweller, since most relocation schemes require proof of residence before a 'cut-off date'. If these documents are either forcefully snatched away or destroyed (and very often they are) then the jhuggi dweller is unable to establish entitlement to resettlement. Therefore, the exercise of conducting a survey has to be very carefully undertaken and with great deal of responsibility keeping

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<sup>18</sup> 2010 SCC Online Del 612



in view the desperate need of the jhuggi dweller for an alternative accommodation.”

### **LEGAL SUBMISSIONS ON BEHALF OF THE DDA**

52. Ms. Kritika Gupta, learned counsel appearing on behalf of the DDA, submitted that the petitioners, falling within this category, have failed to make any factual submissions in support of their claims. The orders of the Appellate Authority rejecting their appeals remain un rebutted. It is further submitted that the Appellate Authority had duly afforded the petitioners sufficient opportunity to demonstrate that the concerned *jhuggis* were being used for both residential and commercial purposes, which they failed to establish.

53. In respect of Petitioner No. 10 in W.P.(C) No. 8419/2023, it is pointed out that no arguments have been advanced to displace or controvert the factual findings recorded in the order passed by the Appellate Authority. There is not even a minimal assertion that the concerned *jhuggi* was being used for mixed (residential-cum-commercial) purposes. In W.P.(C) No. 6291/2023, it is submitted that the petitioner, along with his family, had shifted to another *jhuggi* in 2011, and from the *jhuggi* in question, he was operating a spice-selling business. Video recordings were shown to the petitioner wherein he is visibly seen conducting business from the premises. The petitioner also admitted that he resides on rent in another *jhuggi* and uses the subject *jhuggi* solely for commercial purposes. It is submitted that none of the findings of the Appellate Authority in this regard have been assailed.

54. It is further submitted that it was only upon the conclusion of a



thorough factual and videographic survey of the area that it was conclusively established that the specific *jhuggi* was being used exclusively for commercial purposes and not for dual (residential-cum-commercial) use, as envisaged under the 2015 Policy. Accordingly, the petitioners were found ineligible for rehabilitation. It is also noted that the genuineness or validity of the survey process has not been challenged by the petitioners.

55. Learned counsel for the DDA has further submitted that the petitioners seek to assert their eligibility for rehabilitation solely on the basis of possession of certain documents such as Voter ID cards and Ration Cards. However, as per the applicable 2015 Policy, read in the context of the decision of this Court in *Sudama Singh (supra)*, mere possession of such documents does not confer an automatic right to rehabilitation. The settled position is that the benefit of rehabilitation accrues only to those who have demonstrated "uninterrupted continuous use of the *jhuggi* for residential purposes only."

### **ANALYSIS & DECISION:**

56. I have given my thoughtful consideration to the submissions advanced by the learned counsels for the rival parties. I have also perused the relevant record of the case.

57. **First things first**, it is pertinent to observe that the preliminary objections raised by learned counsels for the petitioners in the present writ petition as well as in the connected matters to the effect that under the DUSIB Act, the DUSIB was designated as the Nodal Agency for implementation of the 2015 Policy read with the Protocol-2015 but the



the respondent DDA allegedly sidelined DUSIB and did not involve it in the joint survey process, and therefore, the entire process of determination of eligibility conditions is flawed and unconstitutional, has already been addressed by this Court in **W.P.(C) 6290/2023**, titled **Sanjeev Bhadra & Anr. v. Govt. of NCT of Delhi**, along with a batch of other writ petitions, vide order dated 26.05.2025, and the preliminary objections have been found to be unsustainable in law. The said order is not repeated for the sake of brevity and may be read as forming an integral part of the present judgment.

**W.P.(C) 2785/2023; W.P.(C) 2352/2023 & W.P.(C) 9038/2023**

58. Upon crossing the preliminary threshold concerning the applicability of the 2015 Policy, and the requirement of strict adherence to the prescribed procedure by the DDA for the determination of claims in the present writ petitions, it becomes evident that each of the petitioners was a minor as on the cut-off date, i.e., 01.01.2015. It is not in dispute that the 2015 Policy applies only to those jhuggi-jhopri clusters which came into existence prior to 01.01.2006. Indeed, the statutory protection afforded under the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011, mandates that no person residing in such JJ clusters, established before 01.01.2006, shall be evicted without provision of alternative housing. However, the necessary corollary flowing from the above discussion is that JJ bastis or clusters which came up after 01.01.2006 but before 01.01.2015 do not fall within the protective umbrella of the DUSIB Act, and the dwellers of such post-2006 JJ clusters are not entitled to any relocation or rehabilitation under the





2015 Policy. Consequently, JJ bastis/clusters established after 01.01.2015 are, *a fortiori*, excluded from consideration for the purposes of relocation or rehabilitation.

59. It is also pertinent to note that the constitutional validity of the 2015 Policy has not been challenged by the petitioners. As per Part B, Clause (1) of the said Policy, the foremost eligibility criterion for allotment of an alternative dwelling unit under the rehabilitation and relocation scheme is that the JJ dweller must be a citizen of India and not less than 18 years of age as on the cut-off date, i.e., 01.01.2015.

60. At this juncture, it is considered apposite to extract the particulars of the petitioners, specifically their respective dates of birth and the reasons recorded for denial of their claims for rehabilitation, as set out below: -

<u>S. No.</u>	<u>W.P.(C)</u>	<u>Date of Birth</u>	<u>Reason for rejection</u>
1.	W.P.(C) 2785/2023	15.07.1998	<p><b><i>Order dated 15.12.2022, passed by the Appellate Authority [Annexure P-14]</i></b></p> <p><i>“19. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2161313 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C). The Appellant/Claimant has categorically admitted that his date of birth is 15.07.1998. He has also further specifically stated that in the Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) as well as in the Pan Card (Annexure-C) his date of birth is correctly recorded to be 15.07.1998.</i></p>





			<p>20. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that he was minor on the cut off date of 01.01.2015. This shows that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA because he was less than 18 years of age on the cut off date of 01.01.2015.</p> <p>21. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2161313 (Annexure-A), which has been issued on 29.07.2017, much after the cut off date of 01.01.2015. As already pointed out, the material placed on file has proved that the Appellant/ Claimant was minor on the cut off date of 01.01.2015 and accordingly Voter ID Card could not have been issued in his favour on the cut off date of 01.01.2015. Accordingly, the question of his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) goes not arise at all. Therefore, we have no hesitation in holding that the Appellant/Claimant was a minor on the cut off date of 01.01.2015 and further he was not having a Voter ID Card on the cut off date of 01.01.2015 and accordingly he does not fulfill the eligibility criteria as per the guidelines issued by DDA.</p> <p>22. The Appellant/ Claimant has also tendered the Electricity Bill (Annexure-D) thereby showing that the electricity connection has been taken in the name of his mother,</p>
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			<p><i>Namita Das. He has also tendered his bank Pass Book (Annexure-E) and his Voter List of the year 2019 (Annexure-F) in which his name appears at SI. No. 641. As mentioned above the Appellant/Claimant was a minor and further he was not having a Voter ID Card on the cut off date of 01.01.2015 and his name does not appear in any of the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and accordingly merely tendering the Voter list of the year 2019 (Annexure-F), the Bank Pass Book (Annexure-E) and the Electricity Bill (Annexure-D) 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.</i></p> <p><i>23. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not having all the requisite documents, including Voter ID card, on the cutoff date of 01.01.2015.</i></p> <p><i>24. The material placed on file shows that the Appellant/Claimant has not been living separately &amp; independently in the Jhuggi No. A-331 but he has been living there as member of the joint family with his parents. Furthermore, the Appellant/Claimant was minor and accordingly Voter ID Card could not be issued in his favour as he was minor on the cut off date of 01.01.2015. The Voter ID Card No. ARE2161313 (Annexure-A) of the present Appellant/Claimant has been issued on 29.07.2017, much</i></p>
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			<p>after the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-F, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/Claimant was less than 18 years of age on the cut off date of 01.01.2015 and further the Voter ID No. ARE 2161313 (Annexure-A) has been issued on 29.07.2017, much after the cut off date of 01.01.2015 and 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). Therefore, we have no hesitation in holding that the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.”</p>
2.	W.P.(C) 2352/2023	12.05.1997	<p><b>Order dated 16.01.2023, passed by the Appellate Authority [Annexure-F]</b></p> <p>“17. The Appellant/Claimant has tendered the Aadhar Card (Annexure-E) of his mother Shakuntla, Gas Bill (Annexure-F), Electricity Bill (Annexure-G) and Ration Card (Annexure H). The Aadhar Card (Annexure E) of his mother Shakuntla is not material to determine the eligibility of Appellant/Claimant. The Gas Bill (Annexure-F) shows that the connection was taken in the name of father of the present Appellant/Claimant, Mangal, on 05.10.2018, much after the cut off date 01.01.2015. The Ration Card (Annexure-H) shows that it has been issued in the name</p>



			<p>of Pradeep Karan on the address of B-656 and only the name of one Laxman has been mentioned. The date of issue of the Ration Card is nowhere mentioned and further the name of the Appellant/Claimant is also not recorded. It is also not explained as to how Pradeep Karan had got the Ration Card (Annexure-H) issued on the address of Jhuggi No. B-656 regarding which the Appellant/Claimant has been claiming allotment from DDA. The Appellant/ Claimant has categorically admitted that he is not having a separate Ration Card. The documents, Annexure-E to Annexure-H are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to: claim allotment from DDA as the Appellant/ Claimant was minor: on the cut off date of 01.01.2015 and he does not have Voter 10 Card on the cut off date of 01.01.2015 and his name does not appear in at least on the voter list of the year's 2012,2013, 2014and 2015 (prior to 01-01-2015) &amp;also in the year of survey.</p> <p>18. Accordingly, we have no hesitation in holding that the Appellant/Claimant was not having all requisite documents, including Voter ID card, on the cutoff date of 01.01.2015 and his name does not appear in any of the voter list of year's 2012, 2014, 2014 and 2015 (prior to 01-01-2015) &amp; also in the year of survey</p> <p>19. The material placed on file</p>
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			<p><i>shows that the Appellant/ Claimant was less than 18 years of age and accordingly Voter ID Card could not be issued in his favour as he was minor on the cut off date of 01.01.2015. The Voter ID Card No. ARE 2281012 (Annexure-A), has been issued on 25.07.2019, much after. the cut off date of 01.01.2015. The documents, Annexure-A to Annexure-H, are of no help to the Appellant/Claimant because these documents do not create any right, title or interest in his favour to claim allotment from DDA because as per our discussion above the Appellant/ Claimant was less than 18 years of age on the cut off date of 01(01.2015 and further the Voter ID Card No. ARE 2281012 (Annexure-A), has been issued on 25.07.2019, much after the cut off date of 01.01.2015 and 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) &amp; also in the year of survey. Therefore, we have no hesitation in holding that the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA."</i></p>
3.	W.P.(C) 9038/2023	29.09.1999	<p><b>Order dated 01.02.2023, passed by the Appellate Authority [Annexure P-1]</b></p> <p><i>"16. The Appellant/Claimant has tendered his Voter ID Card bearing number ARE 2560449 (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C). The Appellant/Claimant has categorically admitted that his date of birth is 29.09.1999. He has also</i></p>



			<p>further specifically stated that in the Voter ID Card (Annexure-A), Aadhar Card (Annexure-B) and Pan Card (Annexure-C) his date of birth is correctly recorded to be 29.09.1999. The admission of the Appellant/Claimant is a clincher piece of evidence and it shows that he was minor on the cut off date of 01.01.2015. This shows that the Appellant/Claimant does not fulfil the eligibility criteria as per the guidelines issued by DDA because he was less than 18 years of age on the cut off date of 01.01.2015.</p> <p>17. The Appellant/Claimant has tendered his Voter ID Card No. ARE 2560449 (Annexure-A), which has been issued on 14.12.2021, much after the cut off date of 01.01.2015 and accordingly his name appearing in at least on the voter list of the year's 2012, 2013, 2014 and 2015 (prior to 01-01-2015) &amp; also in the year of survey, does not arise at all. We have no hesitation in holding that the Appellant/ Claimant was not having all the requisite documents, including Voter ID card, on the cutoff date of 01.01.2015 and his name does not appear in any of the voter list of year's 2012, 2013, 2014 and 2015 (prior to 01.01.2015) &amp; also in the year of survey. Therefore, the Appellant/ Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA."</p>
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61. A careful perusal of the aforesaid reasons by the Appellate Authority undisputable holding that the petitioners had not attained



the age of 18 years as on the cut-off date, they are *per se* ineligible for any benefit under the 2015 Policy. The contention advanced by the learned Standing Counsel for the DDA that no obligation is cast upon the respondent-authority to consider ineligible claims is well-founded.

62. Accordingly, these writ petitions, being devoid of merit, are liable to be dismissed and are hereby dismissed.

**W.P.(C) 6291/2023 and 11015/20236**

63. Firstly, it is pertinent to refer to the eligibility criteria prescribed for the allotment of alternative dwelling units under the scheme for rehabilitation and relocation of JJ dwellers, as set out in Part-B of the 2015 Policy. The relevant portion of the policy reads as under: -

“....

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

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

....”

64. The present two writ petitions pertain to cases wherein the claims of the petitioners were rejected by the EDC, and the said rejection was upheld by the Appellate Authority upon the petitioners' preferring appeals. As explicitly envisaged under Part-B of the 2015 Policy, the decision of the Appellate Authority, once approved by the competent authority, attains finality and is binding. In the present cases, findings of fact have been duly recorded by the EDC, and the same have been affirmed by the Appellate Authority after providing due opportunity to the petitioners, including confronting them with





videographic evidence of the site in question.

65. The petitioners were found to have been utilising the subject jhuggi-jhopri structures exclusively for commercial purposes. In such a scenario, the production of documents merely indicating possession would be of no consequence in establishing entitlement to rehabilitation under the 2015 Policy. The bottom line is that findings of fact, duly arrived at by the designated authorities in accordance with the policy framework, cannot be reappreciated or interfered with in exercise of writ jurisdiction under Article 226 of the Constitution of India. The reasoning accorded by the Appellate Authority while dismissing the appeals of the petitioners are reproduced herein below:-

<u>S. No.</u>	<u>W.P.(C)</u>	<u>Reason for rejection</u>
1.	W.P.(C) 6291/2023	<p><b><i>Order dated 31.03.2023, passed by the Appellate Authority. [Annexure P-1]</i></b></p> <p><i>“11. 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-300 Bhoomiheen Camp, Govind Puri Extension, Kalkaji. A Public Notice by DDA was pasted in the Bhoomiheen Camp to inform the Jhuggi dwellers about the survey to be conducted in the said basti for determination/relocation of JJ Dwellers of Bhoomiheen Camp. The Appellant/Claimant submitted representation to the competent authority along with requisite documents, thereby, alleging that he fulfills the eligibility criteria. While examining the representation for determination of eligibility it was observed that there was some deficiency in the requisite documents as per the policy guidelines. In this regard, Deficiency/ Call Letter was issued early in the year 2022 to the Appellant/ Claimant thereby requesting for submission of required documents. Further, a Public Notice was also issued on 14.03.2022 thereby intimating the dwellers about</i></p>





		<p>organizing of a camp by DDA from 21.03.2022 to 08.04.2022 at DDA/site office at Kalkaji near to JJ Cluster Bhoomiheen Camp wherein the Appellant/ Claimant was given an opportunity for submission of required documents. As per survey record, the Jhuggi bearing No. B-300 was found to be used for commercial purposes. Accordingly the Appellant/ Claimant was not entitled for alternate allotment as per the policy guidelines. Hence, the Eligibility Determination Committee has rejected the claim of the present Appellant/ Claimant for alternative allotment and the Nodal Officer, Bhoomiheen Camp, duly communicated its order bearing No. 385/61/102.G/1316 dated 07.11.2022 to the present Appellant/ Claimant. Aggrieved by the same, the present Appeal No. 25G of 2023 has been filed by the present Appellant/ Claimant.</p> <p>12. In response to the notice, the Appellant/ Claimant has appeared in person. Whereas DDA is being represented by Sh. Prakash Chand, Dy. Director, and Sh. Lokesh Meena, Assistant Director.</p> <p>13. The statement of the Appellant/Claimant has been recorded before us on 01.03.2023. The Appellant/Claimant has also tendered documents, Annexure-A to Annexure-Q. in support of his claim. DDA has furnished the survey records and. also the Video Clippings prepared along with the survey.</p> <p>XXXX</p> <p>15. It is the admitted fact that as per survey record, the Appellant/ Claimant's Jhuggi bearing No. B-300 was found to be used for commercial purposes and accordingly he was not found entitled for alternate allotment as per the policy guidelines. Accordingly, the Eligibility Determination Committee has rejected the claim of the Appellant/ Claimant, which was communicated to him by the Nodal Officer vide Rejection Order dated 07.11.2022 whereby the reasons for rejection is mentioned to be "<b>Commercial</b>" and aggrieved by the same the Appellant/ Claimant has come before us by way of filing the present Appeal.</p> <p>Thus in the present Appeal we are concerned with</p>
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		<p>dispute with regard to the eligibility of the present Appellant/Claimant. We shall appraise the material placed on file to determine as to whether the Appellant/ Claimant's Jhuggi bearing No. B-300 was found to be exclusively used for commercial purposes and accordingly the present Appellant/Claimant is not entitled for alternate allotment as per the policy guidelines.</p> <p>XXXX</p> <p>25. DDA has furnished the survey records along with four video clips. The video clips were played before the Appellant/Claimant when his statement was recorded before us on 01.03.2023 wherein he has stated that in the video clips he (Kashmir Lal-Appellant/Claimant) is seen standing in his shop of spices and he is also heard of making a statement that he lives on rent but he runs a shop from there and further he is also seen holding a slate on which "Kashmir Lal- B-300 G (Shop)" is written.</p> <p>26. The admission of the Appellant/Claimant is a clincher piece of evidence. The survey records as well as the four video clips furnished by DDA shows that the Jhuggi No. B-300 is exclusively used by the Appellant/Claimant for commercial purposes for running a shop for selling spices. Further, in the video he is clearly seen to be standing in his shop and holding a slate on which "Kashmir Lal- B-300 G (Shop)" is written.</p> <p>27. Further, the Appellant/Claimant has specifically admitted that he is running a shop from Jhuggi No. B-300 and has been living on rent somewhere else. It is already pointed out that the Appellant/ Claimant has specifically stated that since 2010-11 he is not living in Jhuggi No. B-300 but living on rent. Therefore, the statement of the present Appellant/ Claimant has been duly corroborated by the survey records as well as the four video clips furnished by DDA thereby showing that the Jhuggi No. B-300 is solely used by the Appellant/Claimant for commercial purposes for running a shop for selling spices.</p>
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		<p>28. It is pointed out that the Appellant/ Claimant has furnished a pen drive containing video and the same was played before the Appellant/ Claimant when his statement was recorded before us on 01.03.2023 wherein he has stated that in the video clip he is seen climbing to the "<b>Night Shelter</b>" on the first floor by using a bamboo ladder and the "<b>Night Shelter</b>" having walls made with "Chatai" and covered with "Tin sheets" is seen.</p> <p>29. The Appellant/ Claimant has admitted that he had not got the said "<b>Night Shelter</b>" surveyed when the survey team of DDA had come to survey his Jhuggi. Furthermore, the existence of a Kuccha "<b>Night Shelter</b>" on the first floor of Jhuggi No. B-300 is of no help to the Appellant/ Claimant because he has specifically admitted that since 2010-11, he along with his family is not living in Jhuggi no. B-300 regarding which he has claimed allotment from DDA but he has been living on rent somewhere else. Thus Jhuggi No. B-300 is not used for both residential and commercial purposes but it is solely used for commercial purposes.</p> <p>XXXX</p> <p>31. It is also pointed out that the admission of the Appellant/ Claimant is a clincher piece of evidence and it shows that the Appellant/ Claimant, Kashmir Lal, along with his wife Rekha and two children, namely, Tanuj &amp; Yogya, was not living in Jhuggi No. B-300, Bhoomiheen Camp on the cutoff date of 01.01.2015 but since 2010-11 they have been living on rent as they have initially lived in Jhuggi No. C-537, Bhoomiheen Camp from 2010-11 till they have shifted to Jhuggi No. D-86, Bhoomiheen Camp in the year 2019. The present Appellant/ Claimant, is running a "Spice Shop" from the said shop bearing Jhuggi No. B-300-. The Appellant/ Claimant has been using the Jhuggi No. B-300 exclusively for commercial purposes as shop for running a "Spice Shop" 'and since 2010-11 it has never been used for residential purposes.</p> <p>32. As per our discussion above, the statement of</p>
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		<p><i>the Appellant/Claimant as well as the survey records/video clips has duly proved that the Jhuggi No. B-300 has been used by Kashmir for running a shop for selling spices and on the cutoff date of 01.01.2015 it was not put to mixed use as commercial/residential or exclusively for residential purposes. Therefore, the Appellant/Claimant does not fulfill the eligibility criteria as per the guidelines issued by DDA.</i></p>
2.	W.P.(C) 11015/2023	<p><b>Order dated 15.02.2023, passed by the Appellate Authority. [Annexure P-4]</b></p> <p><i>“9. The Appellant/Claimant has stated that she is having a double storey Jhuggi No. D-152 and it comprised of one room on each floor. Her husband Jagdish Prasad is running an Electricity shop under the name &amp; style “Roshni Electricals” on the ground floor and he also used to take rest in the shop during the daytime whereas the room on the first floor is used for living purposes by the family including cooking food.</i></p> <p style="text-align: center;">XXXX</p> <p><i>13. DDA has furnished the survey records along with thirteen video clips, which pertains to the Jhuggi of the Appellant/Claimant. The video clips were played before the Appellant/Claimant when her statement was recorded before us on 02.02.2023 wherein she has stated that in the eight video clips the electrical shop on the ground floor is seen and she is seen standing in her shop regarding which she has sought allotment from DDA and further a bamboo ladder is seen going from the ground floor to the upper floor. The Appellant/Claimant is also seen climbing up to the first floor where her daughter-in-law is also seen along. It is pointed out that the Appellant/Claimant is also heard if making statement that her husband is running a shop on the ground floor and the entire family uses the first floor for living purposes. This shows that the Appellant/Claimant and also the family of her son Indrajit are living jointly.</i></p> <p><i>14. The admission of the Appellant/ Claimant is a clincher piece of evidence and it shows that the</i></p>



		<p><i>Appellant/ Claimant is having a double storey Jhuggi No. D-152 and it comprised of one room on each floor. The room on the ground floor is used as shop wherein her husband Jagdish Prasad is running an electricity shop under the name &amp; style "Roshni Electricals" and further the Appellant/ Claimant &amp; her family are living jointly on the first floor. It is also admitted that DDA has made allotment in favour of her daughter-in-law Sangeeta W/o Indrajit against the first floor of the said Jhuggi No. D-152. Therefore, the material placed on file shows that Jhuggi No. D-152 is double storey structure and it comprised of one room on each floor. The ground floor of Jhuggi No. D-152 is used as shop whereas the Appellant/ Claimant and her family are jointly living on first floor of Jhuggi No. D-152. Therefore, for all purposes the double storey jhuggi is a single dwelling unit as the Jhuggi No. D-152 is being used for both residential and commercial purposes. DDA has made allotment in favour of Sangeeta W/o Indrajit against the first floor of the said Jhuggi No. D-152 and accordingly two allotments against the same dwelling unit are not permissible as per the guidelines issued by DDA.</i></p> <p><i>15. Accordingly, we have no hesitation in holding that the Appellant/ Claimant and her family have been using the ground floor of Jhuggi No. D-152 as shop for commercial purposes and the first floor of the said Jhuggi is used for residential purposes regarding which DDA has made allotment in favour of Sangeeta (daughter-in-law of the present Appellant/Claimant) and accordingly the Appellant /Claimant is not entitled to seek second allotment against then same dwelling unit. Therefore, the Appellant /Claimant does not fulfill the eiigibility criteria as per the guidelines issued by DDA.</i></p>
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66. Without further ado, the aforesaid findings on facts in each case cannot be challenged in the instant writ petitions.



67. Accordingly, the present writ petitions are devoid of merit and are, therefore, dismissed.

68. The pending applications also stand disposed of.

**DHARMESH SHARMA, J.**

**MAY 30, 2025**

*Sadiq/SS*