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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment Delivered on:01.08.2025*

+ W.P.(C) 8380/2024 &amp; CM APPL. 34514/2024

HARI DAS AND OTHERS .....Petitioners

Through: Mr. Umesh Kumar, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY

AND OTHERS .....Respondents

Through: Ms. Kritika Gupta and Ms. Vidushi  
Singhania, Advs. for DDA.Mr. Raghavendra Upadhyay, Panel Counsel with  
Ms. Purnima Jain and Ms. Chandra Kishore  
Yadav, Advs. for R-2 and R-3 and also Mr. Anuj  
Chaturvedi, Advocate for R2.**CORAM:****HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J (ORAL)**

1. The present petition has been filed by nine petitioners seeking following reliefs:

*“a) Issue a writ, order, or direction in nature of mandamus staying the actions of the Respondents of demolishing the jhuggis of the Petitioners and forcefully evicting them from their dwelling units;*

*b) Issue a writ, order, or direction to quash and set aside the order dated 24.08.2023, 15.09.2023, 25.09.2023, 18.09.2023, 23.02.2023 30.08.2023, 30.08.2023, 07.08.2023 of Appellant Authority and 04.07.2023 of Competent Authority of DDA.*

*c) Issue a writ, order, or direction to set aside the undated demolition notice issued by the Respondent DDA on 02.07.2023.*

*d) Issue a writ, order, or direction in the nature of mandamus directing the Respondents to provide rehabilitation to the*



*petitioner.”*

2. The learned counsel appearing on behalf of petitioners submits that during the pendency of the present petition, respondent/DDA had undertaken demolition drive and has demolished the jhuggis of all other petitioners except jhuggi of petitioner no.5.

3. The grievance ventilated by the petitioners with regard to the order dated 07.11.2022 passed by the Eligibility Determination Committee (EDC) as well as the impugned orders dated 24.08.2023 in Appeal No.338/2023; 15.09.2023 in Appeal No.473/2022; 25.09.2023 in Appeal No.431/2023; 18.09.2023 in Appeal No.143/2022; 23.02.2023 in Appeal No.643/2023; 30.08.2023 in Appeal No.195/2022; 30.08.2023 in Appeal No.10/2022; 07.08.2023 in Appeal No.318/2023 passed by the Appellate Authority and order dated 04.07.2023 passed by competent authority of DDA.

4. The EDC, the Competent Authority of DDA, as well as, the Appellate Authority has rejected the claim of petitioners for rehabilitation on the ground that names of petitioners do not appear in the voter lists for the year 2012 to 2015. On a pointed query posed by the Court as to whether names of petitioners find mention in the voter lists for the year 2012-2015, Mr. Umesh Kumar, learned counsel appearing on behalf of petitioners, fairly concedes that the names of petitioners are not there in said voter lists.

5. He, however, contends that apart from voter lists, the respondents ought to have appreciated that petitioners possess other documents from the list of 12 documents mentioned in Clause 2 of Part-B of the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 [in short ‘2015 Policy’]. He places reliance on the decision dated 01.08.2017 of Division Bench of this Court in ***W.P. (C) 5378/2017***, titled as ***Udal and Others vs. Delhi Urban***



***Shelter Improvement Board and Others***, wherein the Division Bench considered the inter-play of the provisions of Clause 1 (iii) of Part-B of the Policy and the provisions contained in Clause 2, thereby observing that Clause 1 (iii) and Clause 2 of Part-B of the Policy have to be read conjointly and not dis-jointly. It was thus, held that the petitioners in the said matter were entitled to the benefit of the Policy for the reason that they did possess any one of the 12 documents listed in Clause 2 of Part-B of the 2015 Policy.

6. A perusal of para 3 of the writ petition shows that a specific averment has also been made therein that the present petition can be tagged along with writ petition being W.P.(C) 8546/2023, which is pending before this Court. It is further stated in para 4 that in case the present petition is not tagged with the aforesaid pending petition, it will cause irreparable loss to petitioners. The said relevant paras from writ petition are reproduced herein below for the sake of convenience:

*“3. It is further submitted that all these appeals are preferred against the rejection of their allotment due to the absence of a ration card for the upper floor. These petitioners **can be tagged along with the pending W.P.(C) 8546/2023**, which is being finally argued before the court on the dispute of the ration card.*

*4. **If this petition is not connected with the pending petition, it will cause irreparable loss to these petitioners as this petition also deals with the same issue**, and an order passed by the court in the connected matter would also affect them. No prejudice would be caused to the respondents as ultimately the question on ration card if denied by the court would be affecting all the residents of the camp.”*

(emphasis supplied)

7. Ms. Kritika Gupta, learned counsel appearing on behalf of respondent DDA submits that **W.P.(C) 8546/2023** titled as ***Mohit Kumar and Ors. v.***



**DDA and Ors.** was disposed of by the Coordinate Bench of this Court along with batch of other writ petitions, *vide* judgment dated 06.06.2025, in which **W.P.(C) 3350/2023** titled as **Seema Das v. DDA and Ors.** was the lead case.

8. A perusal of the judgment dated 06.06.2025 of the Coordinate Bench shows that ground, identical to the one agitated by the petitioners herein, was specifically dealt with, in the said judgment. The Court, in para 91, also noted that the ratio in **Udal** (*supra*) has been doubted by another Division Bench of this Court in **Radhe Shyam Kori @ Radhe v. GNCT of Delhi**, W.P.(C) No.5568/2025, and the matter was directed to be placed before Hon'ble the Chief Justice for constituting a Larger Bench to review the decision in **Udal** (*supra*). Further, the Court in para 96 distinguished the decision in **Udal** (*supra*) on facts, and consequently in para 97 of the judgment dismissed the writ petitions wherein the claims of the petitioners therein was rejected on the ground that they did not have their voter identity cards for any of the years 2012- 2015. The relevant excerpts from the judgment dated 06.06.2025 read thus:

**“88. This category has been the most contentious one. Without further ado, it is pertinent to mention here that ‘2015 Policy’ came to be challenged before this Court in the case of Udal (*supra*), particularly with regard to the conditions set out in Part B of the 2015 Policy. The petitioners were aggrieved by the stipulation that the name of the JJ dwellers must appear in at least one of the prescribed voter lists and that they must possess any one of the twelve documents mentioned in the Clause 2, Part B of the 2015 Policy.**

**89. It appears that some of the petitioners were aggrieved that the EDC had rejected their claims for being ineligible for any rehabilitation and relocation under the 2015 Policy, for the reason that their names did not appear in the electoral rolls of the years 2012, 2013, 2014, 2015 and 2016. Additionally, some of the**



***petitioners were unable to produce any of the twelve documents mentioned in the Clause 2 of the Part B of 2015 Policy.***

90. In the peculiar facts and circumstances of the case, the Court appointed a practicing Advocate of this Court as the Local Commissioner, with directions to entertain the claims of the petitioners along with the relevant documents, accord them a hearing and then submit a report as to their continuous possession and occupation of their respective jhuggi prior to 01.01.2006. It was in the said background that the Division Bench of this Court observed as under: -

“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.”

91. During the course of arguments on 06.06.2025, this Court was apprised of a recent direction by the Division Bench of this Court headed by the Hon'ble Chief Justice in **Radhe Shyam Kori @ Radhe v. GNCT of Delhi**, W.P.(C) No.5568/2025 dated 02.05.2025, wherein there was an issue of stay of the demolition of JJ clusters at Jailorwala Bagh, Ashok Vihar, Delhi, and the petitioners/parties were seeking in situ rehabilitation in term of the 2015 policy. It appears that the main prayer in the writ petition is for quashing and/or declaring Clause 1(iii) of Part B of 2015 Policy dated 11.12.2017 as arbitrary, illegal and unconstitutional. At this juncture, it may be noted that the petitioners therein are challenging the constitutional validity of the 2015 Policy, which is



*not the case in the instant matters. The learned Judges in the Division Bench, after considering the entire gamut of the case, had occasion to pass the following interim order: -*

*“10. For considering the interim prayer, which is to be confined to the petitioners, we may refer to certain clauses of the Policy. The Government of National Capital Territory of Delhi promulgated the said Policy vide issuing an Order dated 11.12.2017. Under the said Policy, Delhi Urban Shelter Improvement Board has been appointed as Nodal Agency for relocation/rehabilitation of Jhuggi Jhopri Bastis in respect of lands belonging to Municipal Corporation of Delhi and Government of National Capital Territory of Delhi or its departments/agencies. The Policy contains various parameters to declare as to who is eligible for rehabilitation or relocation. It also mandates that the Government of National Capital Territory of Delhi shall ensure that no Jhuggis came up after 01.01.2015. It also provides for in-situ rehabilitation of the eligible slum dwellers and states that the slum dwellers shall be provided alternate accommodation either on the same land or in the vicinity, within a radius of five kilometers. It also states that in certain exceptional circumstances, rehabilitation/relocation can take place beyond five kilometers with prior approval of the Board. Part-B of the said Policy prescribes the eligibility criteria for allotment of the alternative dwelling units for the purposes of rehabilitating and relocating the slum dwellers, according to which, the slum dweller must be a citizen of India and not less than 18 years of age, and that the Jhuggi-Jhopri Basti in which the slum dwellers are residing, must be in existence prior to 01.01.2006. The Policy further lays down a cut-off date for slum dwellers residing in the Jhuggi-Jhopri for becoming eligible for rehabilitation, which is 01.01.2015.*

*11. Clause-1 (i) of Part-B of the Policy prescribes one of the criteria for assessing the eligibility of slum dwellers for relocation, according to which the slum dweller must appear in at least one of the voter lists of the years 2012, 2013, 2014 and 2015 (prior to 01.01.2015), and also in the year of survey,*



*for the purpose of rehabilitation. Clause-2 of Part-B of the Policy provides that the slum dweller must possess any one of the following documents issued before 01.01.2015 to become eligible for allotment of a dwelling unit; (i) Passport, (ii) Ration Card with photograph, (iii) Electricity Bill, (iv) Driving License, (v) Identity Card/Smart Card with photograph issued by State/Central Government and/or its Autonomous Bodies/Agencies like PSU/Local Bodies (except EPIC), (vi) Pass book issued by Public Sector Banks/ Post Office with photograph, (vii) SC/ST/OBC Certificate issued by the Competent Authority, (viii) Pension document 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 physically handicapped with photograph issued by the Competent Authority, (xi) Health Insurance Scheme Smart card with photograph (Ministry of Labour Scheme) or (xii) Identity card with photograph issued in the name of the descendant(s) of the slum dweller from a Government school or Certificate with photograph issued by the Principal of a Government School mentioning therein that the descendant(s) of the slum dweller is/was the student of the school.*

*12. Thus, in our opinion a slum dweller, apart from being in possession of any one of the documents mentioned in Clause-2 of Part-B of Policy, should also be included in the voters lists as per the prescription available in Clause-1 (iii) of Part-B of the Policy.*

*13. In the survey conducted by the respondents, the petitioners were found to be residents of the Jhuggi-Jhopri concerned, which is enlisted amongst one of the Jhuggi-Jhopris as notified by the Board. If we peruse, the Scheme what we find is that a slum dweller having being found to be residing in the Jhuggi upto a certain period is not enough to make him eligible for rehabilitation or relocation of dwelling unit. Apart from that, he also has to be in possession of one of the documents as spelt out in Para-2 of Part-B of the*



***Policy and in addition thereto, he also needs to be enlisted in the voter list as per the prescription available in Clause-1 (iii) of Part-B of the Policy.***

***14. The petitioners were not found eligible during the survey for allotment of a dwelling unit. The petitioners, however, challenged the said decision by filing an appeal which is provided in the Scheme itself before the Appellate Authority. The Appellate Authority has been constituted by the Delhi Urban Shelter Improvement Board. The appeals filed by the petitioners have been decided by means of the separate orders passed on 19.09.2024, 25.11.2024 and 27.12.2024, whereby the claim put forth by the petitioners of being declared to be eligible for allotment of dwelling units under the Policy, has been declined on the ground that they could not fulfill the eligibility criteria as given in Clause-1 (iii) of Part-B of the Policy, that is to say, their names did not find place in the voter lists of the years mentioned in the said clause.***

***15. Learned counsel for the petitioners has heavily relied upon a judgment of a Coordinate Bench of this Court, dated 01.08.2017, rendered in W.P. (C) 5378/2017, Udal and Others vs. Delhi Urban Shelter Improvement Board and Others. wherein the inter-play of the provisions of Clause-1 (iii) of Part-B of the Policy and the provisions contained in Clause-2 have been considered and it has been held that Clause-1 (iii) and Clause-2 of Part-B of the Policy have to be read conjointly and not dis-jointly. It has further been held that the petitioners in the said matter were entitled to the benefit of the Policy for the reason that they did possess anyone of the 12 documents listed in Clause-2 of Part-B of the Policy.***

***16. If we peruse this Scheme in its totality, what we find is that Part-B of the Scheme contains 06 clauses; Clause-1 provides “the eligibility criteria for allotment of alternative dwelling units to rehabilitate or relocate Jhuggi-Jhopri dwellers”. Clause-1, thus, lists the eligibility criteria, spelt out in sub-clauses (i) to (xi): Clause-2 of Part-B of the Scheme provides for a requirement of the slum dweller of being in***





*possession of one of the documents listed therein; Clause-3 provides for Appellate Authority; Clause-4 provides for terms and conditions of allotment of alternative dwelling units; Clause-5 provides for maintenance of dwelling units after allotment; and Clause-6 authorizes the Chief Executive Officer of the Board to approve the operational guidelines keeping in view the overall scheme of the Policy.*

*17. If we examine Clause-1 and Clause-2 of Part-B of the Policy, in our view, provision of Clause-2 is in addition to Clause-1. The eligibility criteria has been given in Clause-1 and not in Clause-2. Thus, Clause-1 contains the eligibility criteria and those fulfilling the eligibility criteria as per Clause-1, have also to be in possession of one of the documents mentioned in Clause-2. In fact, in our reading of Clause-1 and Clause-2 together, what we find is that Clause-1 provides for the substantive eligibility criteria for assessing as to whether a particular slum dweller is eligible for allotment of a dwelling unit or not. We are also of the opinion that a slum dweller may be eligible for being allotted a dwelling unit or relocation, if he fulfills the criteria mentioned in Clause-1 and in addition thereto, he should also be in possession of one of the documents as set out in Clause-2.*

*18. With all respect at our command, we do not find ourselves in agreement with the observations made in paragraph 39 of the judgment in **Udal (Supra)** by the Co-ordinate Bench, which needs to be reviewed by a Larger Bench. Para 39 of *Udal (supra)* is extracted 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.”*

19. *In view of the aforesaid, let the record of this petition be placed before the Chief Justice for constitution of a Larger Bench for authentic pronouncement on the issue as to whether **Udal (supra)** lays down the correct law.*

20. *However, we may also observe that till the matter is decided by the Larger Bench, the law laid down in **Udal (supra)** rendered by the Coordinate Bench is binding.*

21. *Accordingly, we provide that till further orders, the dwelling units of the petitioners in Jailorwala Bagh JJ Cluster, Ashok Vihar, Delhi, shall not be demolished.*

**{Bold portions emphasized}**

92. *In the aforesaid backdrop, in the considered opinion of this Court, the rejection of the claims of the petitioners on the ground that their names were not found in the voter list for any of the years 2012 to 2015 and/or that the voter identity cards were found to be fabricated, are also such grounds which are beyond the writ jurisdiction of this Court and cannot be agitated in the supervisory jurisdiction under Article 226 of the Constitution of India, 1950, vested with this Court. **The plea that if a voter identity card was issued in the year 2010, it would be valid for five years, is a long shot and cannot be sustained. We have to understand the underlying objective of having such conditions under Clause 2 of Part B, which obviously means that the petitioner/claimant/JJ dweller has to show his continuous residence, acclimatization, or assimilation signifying his belonging to the NCT of Delhi. There is no presumption in law that once a voter identity card has been issued, it would be valid for five years.***

93. *It would be relevant to observe that the case law on the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 is replete with the proposition that a*



writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals; for instance, where orders are passed by inferior courts or tribunals without jurisdiction, or in excess of it, or as a result of failure to exercise jurisdiction. A writ can be issued where, in the exercise of jurisdiction conferred on it, the Court or Tribunal has acted illegally or improperly, for instance, where it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to the principles of natural justice.

94. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction, and the Court exercising it is not entitled to act as an Appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. Avoiding the temptation to enter into a long academic discussion, it would suffice to refer to the decision of the Supreme Court in **Shankara Co-Operation Housing Society Ltd vs M. Prabhakar**, (2011) 5 SCC 607, wherein it was held that: -

**92. The High Court in its writ jurisdiction will not enquire into complicated questions of fact.** The High Court also does not sit in appeal over the decision of an authority whose orders are challenged in the proceedings. The High Court can only see whether the authority concerned has acted with or without jurisdiction. The High Court can also act when there is an error of law apparent on the face of the record. The High Court can also interfere with such decision where there is no legal evidence before the authority concerned, or where the decision of the authority concerned is held to be perverse i.e. a decision which no reasonable man could have arrived at on the basis of materials available on record. Where an enquiry into complicated questions of fact is necessary before the right of aggrieved party to obtain relief claimed may be determined, the Court may, in appropriate cases, decline to enter upon that enquiry, but the question is always one of discretion and not of jurisdiction of the Court which may, in a proper case, enter upon



*a decision on questions of fact raised by the petitioner.*

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97. *Shri Ranjit Kumar, per contra, has placed reliance on the observations made by this Court in State of Orissa v. Dr. Binapani Dei: (AIR p. 1270, para 6)*

***“6. ... Under Article 226 of the Constitution the High Court is not precluded from entering upon a decision on questions of fact raised by the petition. Where an enquiry into complicated questions of fact arises in a petition under Article 226 of the Constitution before the right of an aggrieved party to obtain relief claimed may be determined, the High Court may in appropriate cases decline to enter upon that enquiry and may refer the party claiming relief to a suit. But the question is one of discretion and not of jurisdiction of the Court.”***

98. *In Gunwant Kaur v. Municipal Committee, Bhatinda, this Court held as under: (SCC p. 774, para 14)*

***“14. ... The High Court, however, proceeded to dismiss the petition in limine. The High Court is not deprived of its jurisdiction to entertain a petition under Article 226 merely because in considering the petitioner's right to relief questions of fact may fall to be determined. In a petition under Article 226 the High Court has jurisdiction to try issues both of fact and law. Exercise of the jurisdiction is, it is true, discretionary, but the discretion must be exercised on sound judicial principles. When the petition raises questions of fact of a complex nature, which may for their determination require oral evidence to be taken, and on that account the High Court is of the view that the dispute may not appropriately be tried in a writ petition, the High Court may decline to try a petition.”***

95. *In view of the aforesaid proposition of law, reverting back to the instant matter, the mere fact that some of the petitioners were holding voter identify cards for the preceding years prior to the year 2012 is hardly of any consequence, once we reiterate that the conditions in Clause 1 and Clause 2 of Part B of 2015 Policy are to be read conjointly, meaning thereby that apart from satisfying the*



*requirement of possessing any one of the twelve documents, the next eligibility criteria must also be fulfilled, i.e., the petitioner/claimant must be an eligible voter and must possess a voter identity card for the relevant years, i.e., 2012 to 2015.*

***96. Although a decision on the issue of twin requirement of fulfilling conditions in Part B of the 2015 Policy is pending before the Larger Bench, nothing precludes this Court from deciding the present matter, since it is pertinent to mention that the decision in the case of Udal (supra) was rendered in the background where there was no EDC and/or Appellate Authority to consider the claims of the petitioners/JJ dwellers therein. The said decision is clearly distinguishable, rendered in the absence of such framework of the quasi-judicial authorities, and it took the Court appointed Local Commissioner almost six months to submit a report, which then led to the passing of the decision by the Coordinate Bench.***

***97. The sum and substance is that the writ petitions under this category have to be considered in light of 2015 Policy, and the conditions of which have clearly been explained hereinbefore. As a result, this Court has no hesitation in dismissing the present bunch of writ petitions wherein the rejection of the claims of the petitioners is based on their not having voter identity cards for any of the years 2012- 2015.”***

(emphasis supplied)

9. It is an admitted position that the names of petitioners do not appear in the voter lists of the year 2012 to 2015 and that the claim of the petitioners has duly been considered and subsequently rejected via impugned orders passed by concerned EDC, appellate authority and competent authority of DDA. Therefore, the case of petitioners is similar to the petitioner(s) in W.P.(C) 8546/2023, which stood dismissed along with batch of writ petitions, vide aforesaid judgment dated 06.06.2025.

10. In view of the above, the present petition *qua* petitioner nos. 1 to 4 and 6 to 8, being squarely covered by judgment dated 06.06.2025 (*supra*), is



dismissed.

11. Insofar as petitioner no. 9 is concerned, Ms. Gupta submits that the case of petitioner no. 9 is being considered by DDA in accordance with the judgment dated 06.06.2025 (*supra*). The statement is taken on record and respondent shall remain bound by the same.

12. It is not in dispute that as on date *jhuggi* of petitioner no.5 has not been demolished and is still occupied. Accordingly, petitioner no. 5 is granted four weeks' time to vacate his *jhuggi*.

13. The petition, alongwith pending application, is disposed of.

**VIKAS MAHAJAN, J**

**AUGUST 1, 2025/jg**