



2026:DHC:5194



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

Reserved on: 28th February, 2026

Pronounced on: 30th June, 2026

+ W.P.(C) 3152/2014 & CM APPL. 13170/2015, CM APPL. 24534/2015, CM APPL. 10144-10145/2016, CM APPL. 4315/2017
CM APPL. 37492/2018, CM APPL. 37521/2018, CM APPL. 41452/2018, CM APPL. 25522/2023, CM APPL. 43150/2025
CM APPL. 72792/2025

MUKUND LAL AND ORS

.....Petitioners

Through: Mr. Ankur Mittal, Mr. Abhay Gupta,
Ms. Simran Goyal, Advs.

versus

NORTH DELHI MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Rishikant Singh, Mr. Ranjeet
Singh & Mr. Manoj Jaldy, Adv. for
DUSIB.

Mr. Sanjay Kumar Pathak, Standing
Counsel with Ms. K. Kiran Pathak, Mr.
Sunil Kumar Jha, Mr. Mohd. Sueb
Akhtar & Ms. Joohu Kumari, Advs. for
LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms.
Puja Kalra, SC for MCD, Mr. Govind
Kumar, Ms. Anshika Singh, Mr. Apurv
Kumar & Mr. Viren, Advs. along with
Amit Rana, ALO; SLO Meena & Mr.
Ashish Sharma, EE.

+ W.P.(C) 2160/2014 & CM APPL. 4505/2014, CM APPL. 4751/2015



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CM APPL. 10673/2016, CM APPL. 4212/2017, CM APPL.
21726/2020

BRAHAMANAND GUPTA AND ORSPetitioners

Through: Mr. Gaurav Sarin, Sr. Adv. with Mr.
S.K. Rout, Mr. Rahul Kumar, Mr.
Priyankoo Anjan Gogoi, Ms. Parmita
Nath, Ms. Alka Singh & Ms. Prabasini,
Advs.

versus

UNION OF INDIA AND ORSRespondents

Through: Mr. Ripu Daman Bhardwaj, CGSC for
UOI.
Mr. Rishikant Singh, Mr. Ranjeet
Singh & Mr. Manoj Jaldy, Adv. for
DUSIB.
Mr. Sanjay Kumar Pathak, Standing
Counsel with Ms. K. Kiran Pathak, Mr.
Sunil Kumar Jha, Mr. Mohd. Sueb
Akhtar & Ms. Joohu Kumari, Advs. for
LAC.
Mr. Sanjay Poddar, Sr. Adv. with Ms.
Puja Kalra, SC for MCD, Mr. Govind
Kumar, Ms. Anshika Singh, Mr. Apurv
Kumar & Mr. Viren, Advs. along with
Amit Rana, ALO; SLO Meena & Mr.
Ashish Sharma, EE.

+ W.P.(C) 2731/2014 & CM APPL. 5671/2014, CM APPL. 8912/2016
CM APPL. 3889-3890/2017

ANGOORI DEVI AND ORSPetitioners

Through: Mr. Ishaan Jain, Adv.

versus



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NORTH DELHI MUNICIPAL CORPORATIONRespondent

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

+ W.P.(C) 2735/2014 & CM APPL. 5675/2014

PRAVEEN KUMAR AND ORS

.....Petitioners

Through: Mr. IshaanJain, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATIONRespondent

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.



+ W.P.(C)3733/2014 & CM APPL. 7557/2014, CM APPL. 4755/2015

SUMER CHAND JAIN AND ORS

.....Petitioners

Through: Mr. IshaanJain, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATION AND ANR

.....Respondents

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

+ W.P.(C) 8325/2014 & CM APPL. 19312/2014, CM APPL. 4313/2017

ASHOK KUMAR

.....Petitioner

Through: Mr. Ravinder Kumar Yadav, Mr. Paras Juneja, Ms. Arti Anupriya, Mr. Kartikey, Mr. Kanishk Yadav, Ms. Kritika Yadav, Ms. Manisha & Mr. Naman Verma, Advs.

versus

NORTH DELHI MUNICIPAL CORPORATIONRespondent



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Through: Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

+ W.P.(C) 8508/2014

RAJWANTI AND ORS

.....Petitioners

Through:

versus

NORTH DELHI MUNICIPAL CORPORATIONRespondent

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

+ W.P.(C) 10103/2016 & CM APPL. 40005/2016, CM APPL. 4311/2017

PRAMOD KUMAR & ANR

.....Petitioners

Through: Mr. Ishaan Jain, Adv.

versus



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NORTH DELHI MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

+ W.P.(C) 11905/2016 & CM APPL. 46959-46960/2016

JAI PRAKASH GARG

.....Petitioner

Through: Mr. Ishaan Jain, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATION & ANR

.....Respondents

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with



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Amit Rana, ALO; SLO Meena & Mr.
Ashish Sharma, EE.

+ W.P.(C) 2113/2016 & CM APPL. 9098/2016, CM APPL. 12267/2017
CM APPL. 23382/2020, CM APPL. 72789/2025

MUKUND LAL & ORS

.....Petitioners

Through: Mr. Ankur Mittal, Mr. Abhay Gupta,
Ms. Simran Goyal, Advs.

versus

NORTH DELHI MUNICIPAL CORPORATION OF DELHI & ANR

.....Respondents

Through: Mr. Rishikant Singh, Mr. Ranjeet
Singh & Mr. Manoj Jaldy, Adv. for
DUSIB.

Mr. Sanjay Kumar Pathak, Standing
Counsel with Ms. K. Kiran Pathak, Mr.
Sunil Kumar Jha, Mr. Mohd. Sueb
Akhtar & Ms. Joohu Kumari, Advs. for
LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms.
Puja Kalra, SC for MCD, Mr. Govind
Kumar, Ms. Anshika Singh, Mr. Apurv
Kumar & Mr. Viren, Advs. along with
Amit Rana, ALO; SLO Meena & Mr.
Ashish Sharma, EE.

+ W.P.(C) 3192/2016 & CM APPL. 13681/2016, CM APPL. 4509/2017
CM APPL. 21704/2020

GAUTAM BHAGAT

.....Petitioner

Through:



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versus

NORTH DELHI MUNICIPAL CORPORATIONRespondent

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

+ W.P.(C) 320/2016& CM APPL. 1293-1294/2016, CM APPL.
21725/2020

DHARAMPAL SHARMA

.....Petitioner

Through:

versus

UNION OF INDIA & ANR

.....Respondents

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms.



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Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

+ W.P.(C) 1179/2017 & CM APPL. 5357/2017, CM APPL. 21724/2020

KHURANA GENERAL STORE

.....Petitioner

Through: Mr. S.K. Rout, Mr. Rahul Kumar, Mr. Priyankoo Anjan Gogoi, Ms. Parmita Nath, Ms. Alka Singh & Ms. Parbhasini, Advs.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Mr. Vivek Goyal, CGSC with Mr. Gokul Sharma, Adv.

Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

+ W.P.(C) 940/2017 & CM APPL. 4278/2017

JAIMALA JAIN

.....Petitioner



Through: Mr. Ishaan Jain, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATIONRespondent

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

+ W.P.(C) 3644/2023 & CM APPL. 14120/2023

GULSHAN KUMAR NARANG

.....Petitioner

Through: Mr. Dhruv Gautam & Mr. Abhishek Tongar, Advs.

versus

MUNICIPAL CORPORATION OF DELHI

THROUGH ITS COMMISSIONER & ANR.

.....Respondents

Through: Mr. Rishikant Singh, Mr. Ranjeet Singh & Mr. Manoj Jaldy, Adv. for DUSIB.

Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kiran Pathak, Mr.



Sunil Kumar Jha, Mr. Mohd. Sueb Akhtar & Ms. Joohu Kumari, Advs. for LAC.

Mr. Sanjay Poddar, Sr. Adv. with Ms. Puja Kalra, SC for MCD, Mr. Govind Kumar, Ms. Anshika Singh, Mr. Apurv Kumar & Mr. Viren, Advs. along with Amit Rana, ALO; SLO Meena & Mr. Ashish Sharma, EE.

**CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA**

JUDGMENT

AMIT SHARMA, J.

1. This batch of petitions is being disposed of with a common Judgment, as they raise issues with respect to final criterion dated 11.12.2013 bearing no. EE(PR)III/RZ/2013-14/405 issued by the North Delhi Municipal Corporation (hereinafter referred to as “NDMC”) and the final list dated 26.02.2014 bearing no. EE(Pr)III/RZ/2013-14/541 notified by the NDMC. Factual background leading to filing of the present petitions is as follows:-

a) On 23.02.2010, two notifications under Section 4 read with Section 17(4) of the Land Acquisition Act, 1894 (hereinafter referred to as “LA Act”) were issued. One of the said notifications was for acquisition of land measuring 3 Bigha 14 Biswa 4 Biswanis, for construction of road over bridge (hereinafter referred to as “ROB”) at Nangloi-Sultanpur Road and another notification was for acquisition of land measuring 6 Bigha 19 Biswa 17 Biswanis for construction of road under bridge (hereinafter referred to as



“RUB”) on existing Railway Crossing Mundka No. 16 on Delhi Bhatinda Section. Subsequently, former notification was challenged before this Court through W.P.(C) 1852/2010 titled as “Mukund Lal & Ors. V. UOI & Ors.”.

b) Learned Division Bench of this Court *vide* order dated 06.07.2011 in W.P.(C) 1852/2010, recorded the submission made on behalf of the petitioners therein that they would be agreeable to give up other pleas including non-availability of opportunity under Section 5A of the LA Act, if alternate plots are provided on a reasonable basis. The said order is reproduced hereunder:

“Learned Counsel for the petitioners requests for a short time to place on record documents of title along with an affidavit as he states that some of the petitioners have sale deed directly in their favour while in respect of others the property has been inherited and he would like to show the line of succession.

In rejoinder, learned counsel for the petitioners has concluded his submissions and has drawn our attention to pages 44 and 45 of the paper book, which deals with the regularization of the colony in question. Learned counsel emphasizes that as per para 5 of this regularization plan alternative plots were to be provided on reasonable basis to person where plots are covered in the public utility areas. It is, thus, submitted that the petitioners would be agreeable to give up other pleas including in respect of non availability of opportunity under section 5A of the Land Acquisition Act 1894 (hereinafter to as the LA Act) if such rehabilitation is possible. Learned counsel for the MCD/ respondent no. 4 on the other hand, submits that such rehabilitation was really meant for the common facilities like parks, school, open spaces, etc. as per para 3 of the scheme.

We, however, find that merely because public utility in question being a road over bridge coming up at a later period of time does not imply that an endeavour should not be made to rehabilitate the displaced persons. This would also obviate the problems faced by the respondents on account of denial of opportunity to the



petitioners under Section 5A of the LA Act, which is the main plank of the petitioners: This alternative plea of rehabilitation, thus, in our considered view is required to be considered by the MCD. This is more so in view of the fact that a survey at site had found earlier (though did not form a part of the ultimate approval) that a slight adjustment would have assisted the petitioners in continuing to occupy the portion while land was available on the other side with the Slum and JJ Wing which would have obviated the requirement of major displacement. Thus, this land stands available for such rehabilitation and this aspect needs to be looked into by the MCD. This would also require the assistance of the Slum & JJ Wing of respondent No.5. We direct the Commissioner, MCD to look into this aspect and submit a report to this Court by the next date of hearing. Learned counsel for respondent No.4/MCD states that the Slum & JJ Wing/respondent No.5 has been reconstituted and is now known as Delhi Urban Shelter Development Board which is under the Government of NCT of Delhi. The Commissioner, MCD to, thus, associate the relevant Director of the Board in pursuance to our directions. The petitioners to file the amended Memo of Parties within a week.

List for directions on 28.7.2011.

Dasti to learned counsel for respondent No.4 under the signatures of the Court Master.”

c) *Vide* order dated 23.08.2011, W.P.(C) 1852/2010 was disposed of by the learned Division Bench of this Court, in view of the aforesaid rehabilitation. The Court further noted that the interim order shall continue till the time rehabilitation process is completed. The said order is reproduced as under:

“An affidavit has been filed by the MCD in pursuant to our order dated 06.7.2011 read with order dated 28.7.2011. The Commissioner, MCD had discussions with the representatives of the Delhi Urban Shelter Development Board and feasibility of rehabilitation of the petitioners herein was explored. The Delhi Urban Shelter Development Board in terms of letter dated 18.8.2011 has stated that the land admeasuring approx. 1700 Sq.



Mt. is available at Nangloi and if the same is acceptable to the MCD, the approval of the Chairman of the Board and the Lt. Governor of Delhi may be obtained. The aforesaid land is acceptable to the petitioner and thus the Delhi Urban Shelter Development Board and also respondent nos. 2 & 3 should take necessary steps for obtaining necessary approvals/sanctions. We expect the needful to be done within four weeks.”

It is stated that since the petitioners are running shops in their existing location, change of land use may also be required, for which the respondents will take steps. We have noticed in the order dated 06.7.2011 the plea of the petitioner that if such a rehabilitation takes place, they would be agreeable to give up other pleas raised in the writ petition including in respect of non-availability of opportunity under Section 5A of the Land Acquisition Act, 1894. Thus on the aforesaid rehabilitation, the writ petition itself shall stand compromised. The writ petition thus stands disposed of in the aforesaid terms leaving the parties to bear their own costs. Interim order shall continue in order to further benefits of the petitioners till such a time rehabilitation process is completed.

List for compliance on 18th October, 2011.

Dasti to learned counsel for the parties under the signatures of the Court Master.”

d) On 18.10.2011, learned Division Bench of this Court passed the following order:

“Learned counsel for DUSIB states that a decision has been taken to make available the land in question to the MCD for rehabilitation of the Petitioners and other similarly situated persons affected by the acquisition. Learned counsel for the MCD seeks some time to examine the matter and place the final decision before this Court by an affidavit showing compliance. Needful be done within eight weeks with advance copy to learned counsel for the petitioners.”

e) On 14.12.2011, land ad-measuring 1700 sq metres was made available by Delhi Urban Shelter Improvement Board (hereinafter referred to as “**DUSIB**”) to the Municipal Corporation of Delhi (hereinafter referred to as



“MCD”), upon payment being made by the MCD for the purpose of rehabilitation. Further, since the land offered by DUSIB was residential, Delhi Development Authority (hereinafter referred to as “DDA”) *vide* notice dated 03.01.2012 requested the affected persons to change use of land for mix land use in residential use zone.

f) In compliance of order dated 18.10.2011 in W.P.(C) 1852/2010, MCD filed its affidavit dated 05.01.2012, which reads as under:

“3. That it is submitted that during the course of hearing of the present petition, the petitioner wanted to be relocated on the land belonging to the Delhi Urban Shelter Improvement Board (DUSIB). Ld. counsel for the DUSIB stated before this Hon’ble Court during oral arguments that they are willing to transfer the land to MCD for the purpose of rehabilitation of persons affected by acquisition. On this submission, it was also suggested that necessary permission for change of land usable also be obtained from the competent authority.

4. That the settlement before this Hon’ble Court was arrived at on the basis of the direction passed by this Hon’ble Court in. this regard on the premise that the required land shall be made available by DUSIB, as stated by Ld. Counsel for the said Board. All the requisite steps regarding rehabilitation of the affected persons could be taken by MCD only when land was made available to MCD by DUSIB. The DUSIB *vide* its letter No.DD/IAL/JJ/DUSIB/2011/D-147 dated 14.12.2011 offered the land to MCD measuring 1700sqm in the vicinity of Punjabi Basti after payment of Rs.77,77,500/-. This letter was received by the office of Commissioner MCD on 23.12.2011. Copy of the letter dated 14.12.2011 received from the DUSIB is annexed hereto as **Annexure M-6**. The offer of allotment of land to MCD has been made after due approval from the Lt. Governor of Delhi. It is further submitted that on telephonic discussion with the Director, DUSIB on 04.01.2012, it was informed that the DUSIB is in the process of issuing another letter to MCD clarifying that the aforesaid land is being offered to MCD for allotment on lease basis. It may be submitted that while offering



the said land, DUSIB has imposed a condition that the said land will be used for residential purpose only and will not be used for any other purpose.

5. That immediately thereafter, the aforesaid letter received from DUSIB on 23.12.2011 was processed for obtaining sanction of payment of Rs.77,77,500/- as demanded by DUSIB. In the meantime, on receipt of this letter, request for change of land use from residential to mixed land use, was made on 3.1.2012 so that the same is done by the DDA. Copy of the letter dated 3.1.2012 is annexed hereto as **Annexure M-7.**

6. That it is submitted that on receipt of the concurrence from DDA, as aforesaid, the MCD shall take further action for rehabilitation of the affected persons. Further, for the purpose of allocation of land to the rehabilitated person, it is recommended that an association be formed by the affected persons for management and peaceful distribution of land.

7. That it is also pertinent to mention here that out of the 1700 Sq. meters of land put at the disposal of MCD by the DUSIB, approximately 500 sq. meters of land shall be required by the MCD for the purpose of the present project i.e. construction of ROB/RUB at Sultanpuri Railway Crossing. The balance land of approximately 1200 sq. meters will be made available to the eligible petitioners as well as other affected persons.”

g) On 10.04.2012, learned Division bench of this Court passed an order in W.P.(C) 1852/2010, which reads as under:

“An affidavit has been filed by MCD affirmed on 05.01.2012. terms of this affidavit it has been suggested that the association of effected persons be formed, which would facilitate rehabilitation. However, learned counsel for the petitioner states that this may not be possible as there are various groups and individual cases, which will have to be verified.

Learned counsel for the MCD states that the MCD proposes to fix a date by when the persons claiming any right of rehabilitation must furnish their documents to be verified. He submits that adequate



publicity will be given in the locality with stipulation that failure to file the documents by a cut-off date would make the persons ineligible. It is suggested that the dates be fixed today itself.

Learned counsel for the MCD states that three dates may be fixed because there have been a number of persons who may be wanting to lodge their documents. At his request the dates are fixed as 9th, 10th and 11th, May 2012 between 11:00 a.m. to 4:00 p.m. in the office of the Executive Engineer (Project), West-I, near Moti Nagar flyover, Delhi. The MCD would thereafter proceed to draw the list of eligible persons and place the same before the court at least three days prior to the next date of hearing.

It is also stated in the affidavit that on the issue of change of land use no response is being received from the DDA despite letter dated 03.01.2012 and reminder dated 02.03.2012. We direct the DDA to take steps for change of land use in pursuance of letter of the MCD referred to and this order be brought to the notice of the Director (Master Plan), DDA as also the vice Chairman, DDA.

List for further directions on 25.07.2012.

Copy of the order be given *dasti* to learned counsel for the MCD to be served on the officers of the DDA.”

h) On the same date *i.e.* 10.04.2012, learned Division bench passed another order disposing of W.P.(C) 1742/2012 titled as “Sunita Jain & Ors. v. UOI & Ors.”, the said order reads as under:

“It is agreed that the benefit of the orders passed in WP(C) No. 1852/2010 will also be made available to the petitioners herein and all other similarly situated persons **subject to the eligibility and availability of land**. The net result is that it is not necessary for individual persons to file writ petitions to agitate their grievances in this behalf. The petitioners may comply with the directions made earlier as well as today in WP(C) No. 1852/2010.”

(emphasis supplied)

i) NDMC/ respondent filed an affidavit dated 01.10.2012 in W.P.(C)



1852/2010, wherein, it was stated that the department on the basis of detailed deliberations and the documents received from various applicants has framed guidelines/ criteria for drawing the list of eligibility for rehabilitation of applicants affected by construction of ROB/ RUB at Sultanpuri near Nangloi.

j) *Vide* order dated 03.10.2012 in W.P.(C) 1852/2010, learned Division Bench of this Court noted that any person aggrieved by any of the terms and conditions of final criterion for rehabilitation or by their exclusion from the list of eligible persons may take independent legal proceedings. It was also clarified that the reference to rehabilitation process is to the handing over of the land in question. The said order reads as under:

“An affidavit has been filed by MCD in Court today affirmed on 01.10.2012. In terms of this affidavit, a criterion has been laid down of eligibility.

Learned counsel for the petitioner makes a dual submission. The first is that in para 4 (ii), there is a reference to fulfillment of other conditions? He, thus, poses a query as to what are these other conditions. Learned senior counsel for the respondents No.2 and 4, on instructions, states that the reference is only to the other conditions set out in the affidavit. The second grievance is qua clauses (iv) and (v), for which they want to make a representation.

It is agreed that any person, who is aggrieved by any of the terms and conditions of the criterion may prefer a representation within a period of one week from today. The respondents will take a decision within a maximum period of three weeks thereafter and publish the final criterion, and the list of eligible people in terms of that criterion. Thereafter, if any objection is filed qua any individual person, who may have been inadvertently excluded despite meeting the criterion, the same can be examined.

We may notice that copies of the affidavit filed have also been handed over to learned counsel for the petitioners, who were appearing in the connected matters also. Needless to say that any persons who are aggrieved either by the final criterion, or by their



exclusion from the list of eligible persons, will have to take independent legal proceedings in accordance with law to agitate their grievance.

It is made clear that the interim orders dated 23.08.2011 will continue to enure for the benefit of the petitioners till the rehabilitation process is completed as per the final eligibility list. **At request of learned counsel for the respondent, it is clarified that the reference to rehabilitation process is to the handing over of the land in question,**

Since the writ petition already stands disposed of, no further directions are required and the matter need not be listed any further.”

(emphasis supplied)

k) On 10.10.2012, draft criteria for eligibility was published by NDMC and representations were invited from persons aggrieved by any of the terms and conditions set out in the said criterion within a period of 7 days *i.e.* upto 19.10.2012. On 19.10.2012 itself, representation was made by petitioner no. 1 in W.P.(C) 3152/2014 in terms of aforesaid order dated 03.10.2012.

l) On 30.08.2013, after considering the applications received from aggrieved persons, final criteria was laid down for drawing the list of eligible applicants. Subsequently, on 11.12.2013, NDMC published final criterion for drawing the list of eligibility for rehabilitation of applicants affected by construction of ROB/ RUB at Sultanpuri near Nangloi.

m) On 26.02.2014, final list of 53 eligible persons in terms of the aforesaid final criterion was drawn.



n) On 15.05.2014, W.P.(C) 3152/2014 *i.e.* the lead matter in the present batch of writ petitions, was filed along with C.M. No. 6565/2014 challenging the final criterion dated 11.12.2013 and seeking interim stay with respect to the same respectively. However, the said application was dismissed by the learned Predecessor Bench of this Court *vide* order dated 20.05.2014, which reads as under:

“ I have heard counsel for the petitioners for the last 15 minutes, and when I put a question to him in order to speed up matters, counsel responds, My Lord may bear with me and give me some more time"; and then, when I am proceeding to record this, he states, "My Lord has not heard me". This conduct on the part of counsel is deprecated and this Court does not appreciate it. At the very least, Court has a duty to put appropriate questions as it thinks fit. Although counsel for the petitioner now protests loudly; and rather aggressively; that he is there to assist this Court, but I am afraid the fact remains that by his tone and tenor; and the style adopted by him, counsel merely is coming across as being obdurate. Therefore, I find myself left with no option but to invite counsel for the respondent to address this Court with regard to any query that I may have.

It would appear that the scope of the challenge in this writ petition concerns the final criteria dated 11.12.2013, that is stated to have been drawn up by the North Delhi Municipal Corporation for the purpose of rehabilitation of applicants affected by the construction of ROB/RUB, Sultanpuri, near Nangloi, Delhi; which criteria has been prepared pursuant to orders passed by this Court on 03.10.2012 in Writ Petition (C) No.1852/2010, titled as ***Mukund Lai & Ors. v. UOI & Ors.***, wherein this Court had also directed that, "...any persons who are aggrieved either by the final criterion, or by their exclusion from the list of eligible persons, will have to take independent legal proceedings in accordance with law to agitate their grievance.

Issue notice to the respondent to show cause as to why Rule nisi be not issued.

Ms. Mini Pushkama, Advocate, accepts notice and submits that there are two other matters also, being WP(C) No.1740/2014 and WP(C) No.2371/2014, where grievances have been raised with regard to the aforesaid final criteria drawn up by the North Delhi



Municipal Corporation; and those matters are now posted for further preliminary consideration on 29.10.2014.

Let reply to the show cause notice be filed within six weeks from today, with an advance copy to counsel for the petitioner, who may file his rejoinder thereto, if any, within four weeks thereafter.

List for further preliminary consideration on 29.10.2014.

CM No.6566/2014

List on 29.10.2014.

CM No.6565/2014

Counsel for the petitioners / applicants presses the interim application.

I am not inclined to grant any interim relief in the matter where a public project is stated to be underway.

The application is therefore dismissed.”

o) On 15.09.2014, a letter was circulated by the NDMC, with respect to the amendment in final criterion for rehabilitation of applicants. In said letter it was stated that the eligible persons may form a Registered Association instead of a Co-operative Group Housing Society. Further, in another letter dated 15.09.2014, it was stated that in a meeting held on 12.09.2014, it was decided that the association of affected persons so formed would be handed over the possession of the land and all necessary activities would be carried out by the said association, like payment of cost of the land to the MCD, conducting draw of lots for allotting units to respective members and taking up construction of units as per approved layout plan.

p) On 21.10.2014, Punjabi Basti Welfare Association, Nangloi (hereinafter referred to as “**Association**”) was registered under Societies Registration Act XXI of 1860 and they started dealing with the NDMC/ respondent.



q) On 04.02.2015, a meeting was held in the chamber of Engineer-in-Chief, NDMC, wherein, it transpired that layout plan (of the plot meant for rehabilitation) for the purpose of local shopping centre has been cleared by the Layout Scrutiny Committee and Standing Committee approval will be obtained in a week. It further held that after approval of the Standing Committee, handing over of the possession of the rehabilitation land to the association of eligible persons is expected to take place in two months.

r) Aggrieved by the order dated 20.05.2014, LPA No. 585/2014 was filed. Learned Division Bench of this Court disposed of the said Appeal *vide* order dated 05.02.2015 and recorded the statement made by the respondent therein/ NDMC to the effect that till the alternate site/ land is allotted to the appellants therein, they will not be dispossessed from the site occupied by them. The said order reads as under:

“CM No.14686/2014

Allowed.

LPA No.585/2014

1. Learned counsel for the respondent states that till when alternative site/land would be allotted to the appellants, they would not be dispossessed from the site occupied by them.
2. The order impugned in the appeal is dated May 20, 2014 which has dismissed CM No.6565/2014, simply observing that interim relief in a matter where a public project is under way cannot be granted.
3. It cannot be said as a matter of law that in each and every case where a public project is involved the Court would be denuded the power to grant an interim stay.
4. Be that as it may, in view of the stand taken by learned counsel for the respondent that till alternative sites are offered to the appellants none of them would be dispossessed from the site, binding the respondents to the stand taken, nothing survives for adjudication in the appeal.
5. The file of W.P.(C) No.3152/2014 has been sent in Court and



we find that the next date of hearing before the learned Single Judge is March 18, 2015. We would request the learned Single Judge to try and dispose of the writ petition as early as possible and would simultaneously advise the respondents to file a counter affidavit in the writ petition which in spite of an order dated October 29, 2014 has not been filed.

6. The appeal is disposed of in terms of para 4 above.

7. At this stage we note a request made by learned senior counsel for the appellants for expunging certain observations in the order dated May 20, 2014 concerning what transpired in the Court between counsel for the appellants and the Court.

8. The impugned order would reveal that learned counsel for the appellant had protested when hearing of only 15 minutes was given to the counsel. The order would record that the counsel raised his voice, and the learned Single Judge was of the opinion that the tone and tenor evinced an obdurate stand.

9. Now, the observations hardly cast any aspersion on the counsel.

10. The relationship between a judge and a lawyer is unique and it does not exist in any other profession. This relationship is fraught with the hazards of tempers that sometime seethe in the stormy billows of the court room and of antagonisms that occasionally arise from the loss that must, inevitably, be sustained by one side as every legal battle ends. But, lawyers and Judges are aware that these stray incidents are innocuous and cast no stigma on either side of the Bench.

11. Observing as above we are of the opinion that nothing needs to be expunged in the impugned order.

12. No costs.

CM No.14687/2014

Dismissed as infructuous.”

s) On 13.03.2015, respondent raised a demand of Rs. 77,77,500 from the Association towards the cost of the land meant for rehabilitation, so that the case may be processed further for handing over of the said land.

t) Nangloi Market Welfare Association (Punjabi Basti) *vide* letter dated 17.03.2015, objected to the Punjabi Basti Welfare Association, Nangloi/



Association regarding the letter dated 13.03.2015 and requested the Executive Engineer, NDMC to not give any demand letter, possession of land or any power to the new society, Punjabi Basti Welfare Association, Nangloi/ Association and everything should be done by the NDMC.

u) On 19.08.2015, the Association through its President and Secretary, was handed over possession of land measuring 1162.295 sqm out of 1700 sqm by Junior Engineer and Assistant Engineer of MCD for the purpose of rehabilitation of affected persons.

v) On 26.08.2015, RTI application was filed, requesting DUSIB to provide information related to the date of submission of payment by the MCD to DUSIB for land ad-measuring 1700 sq metres. Subsequently, DUSIB replied to the said letter *vide* letter dated 30.09.2015 stating that it has not handed over possession of any land to the respondent/ NDMC yet.

w) Subsequently, CM No. 24534/2015 was filed in W.P.(C) 3152/2014 seeking setting aside of communication dated 19.08.2015 and the same was listed before this Court on 20.10.2015, whereby, the learned Predecessor Bench clarified that all actions hereafter will be subject to the orders passed in W.P.(C) 3152/2014.

x) On 04.03.2016, respondent issued a vacation notice to the petitioners and others to vacate their shops within five days of receipt of the said notice, as the rehabilitation process had been allegedly completed in terms of the order dated 03.10.2012 in W.P.(C) 1852/2010.



y) On 11.03.2016, W.P.(C) 2113/2016 was filed challenging the aforesaid vacation notice. Learned Predecessor Bench *vide* order dated 11.03.2016 issued notice in the said petition and directed to maintain *status quo* in the meantime.

z) From March 2016 to December 2016, the parties were attempting to arrive at an amicable settlement and the said fact was also recorded by this Court in order dated 14.12.2016 in W.P.(C) 3152/2014.

aa) W.P.(C) 2160/2014 titled as “Brahamanand Gupta & Ors. v. UOI & Ors.” was filed by 41 petitioners/ tenants challenging the final criteria dated 11.12.2013 and the final list of eligible members dated 26.02.2014. Shops of 11 petitioners therein was demolished, so the remaining 30 petitioners therein/ applicants therein approached this Court *vide* CM No. 4212/2017 seeking interim stay in terms of the vacation notice issued by the NDMC. The learned Predecessor Bench of this Court *vide* order dated 01.02.2017 in the said writ petition, directed that no coercive action be taken against the said applicants.

bb) Another writ petition being, W.P.(C) 940/2017 titled as “Jaimala Jain v. NDMC” was filed assailing the vacation notice dated 27.01.2017 issued by the NDMC. In the said vacation notice the petitioners therein were directed to vacate the suit property therein, failing which coercive steps were directed to be taken against them. Learned Predecessor Bench of this Court *vide* order dated 02.02.2017 in the said writ petition, directed that no coercive action be taken against the petitioners therein on the basis of the interim protection



granted in W.P.(C) 2160/2014. Further, the learned Predecessor Bench also granted interim protection in W.P.(C) 2735/2014 titled as “Praveen Kumar & Ors. v. NDMC”, wherein the same vacation notice dated 27.01.2017 was challenged.

cc) *Vide* order dated 23.03.2017, learned Predecessor Bench directed the respondent/ NDMC to finalize the lease deed, which had to be executed in favour of the Residents Welfare Association of the Punjabi Basti and place it on record.

dd) On 06.07.2018, a registered lease deed was executed between the Association and NDMC with respect to all vacant plot of land in ‘Local shopping’ use situated near Punjabi Basti, Nangloi Phase -I, New Delhi - 110041.

ee) On 14.05.2024, the Association applied online for the grant of sanction for erection of building/ execution of work at Local shopping near Punjabi Basti, Nangloi, Phase I, New Delhi- 110041. However, on 01.06.2024, the said sanction was rejected on the ground that online application was not in proper format and was not accompanied by requisite permissions/ NOCs from other departments like Fire Department, Delhi Urban Art Commission etc and was advised to obtain necessary clearances.

ff) Subsequently, in May 2024, the Association was granted necessary clearances from fire department and Delhi Urban Art Commission. Thereafter, the Association again applied online for sanction of building plan



for Local Shopping Centre. However, the Building Headquarters referred back the said application to the concerned Architect of Association for removal of certain deficiencies and clarifications.

2. Since the issues arising in the present batch of writ petitions and grievance raised by the petitioners are similar, all petitions are being disposed of by way of this common judgment. *Vide* order dated 07.08.2015, learned Predecessor Bench of this Court noted that W.P.(C) 3152/2014 titled as “**Mukund Lal & Ors. v. North Delhi Municipal Corporation of Delhi**” will be treated as the lead matter. Thus the said Writ petition is treated as a lead matter herein for the purposes of adjudication of the present batch of writ petitions. For the sake of convenience, present batch of writ petitions have been categorized in the following manner:

A. Petition filed by eligible persons, challenging eligibility of other persons and claiming larger area for rehabilitation for themselves-W.P.(C) 3152/2014

B. Petitions filed by tenants-W.P. (C) 2160/2014 & W.P.(C) 1179/2017

C. Petition filed by occupants of thada/stall holders-W.P.(C) 3733/2014

D. Petitions filed by eligible persons, challenging vacation notice/ demolition order issued by NDMC- W.P.(C) 2113/2016, W.P.(C) 940/2017 & W.P.(C) 3192/2016

E. Petitions filed by persons, who have not paid conversion charges till the cut-off date *i.e.* 10.04.2012-W.P.(C) 2731/2014, W.P.(C) 2735/2014, W.P.(C) 8508/2014, W.P.(C) 8325/2014 & W.P.(C) 10103/2016

F. Petition filed by persons, who failed to submit requisite documents



by cut-off date *i.e.* 11.05.2012-W.P.(C) 320/2016

G. Petitions filed by persons, challenging decision of NDMC holding them not entitled for rehabilitation-W.P.(C) 11905/2016 & W.P.(C) 3644/2023

A. Petition filed by eligible persons, challenging eligibility of other persons and claiming larger area for rehabilitation for themselves-W.P.(C) 3152/2014

3. The present petition under Articles 226 of the Constitution of India, 1950, seeks the following prayers: -

- “ A. Writ, order or direction declaring that final criterion dated 11-12-2013 bearing no. EE(PR)III/RZ/2013- 14/405 and the consequential final list dated 26- 02-2014 notified by the Respondent suffers from illegality, malafide, arbitrariness and non application of mind; and
- B. Writ, order or direction quashing / setting aside the final criterion dated 11-12-2013 bearing no. EE(PR)III/RZ/2013-14/405 and the consequential final list dated 26-02-2014 notified by the Respondent;
- C. Writ, order or direction in the nature of mandamus directing Respondent not to disturb the peaceful possession of the Petitioners in respect of their lands/properties situated at Punjabi Basti, Nangloi, Delhi;
- D. Pass an order allowing the costs of the present writ petition in favour of the Petitioners and against the Respondent;
- E. Pass such order or further orders that this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY”

4. Learned counsel for the petitioners, made following submissions in



support of the present petition:

MCD is trying to accommodate everyone in a limited piece of land

i) Total approx area of 3950 sqm. is required to rehabilitate every shopkeeper affected by the acquisition. However, as recorded in order dated 23.08.2011, MCD informed availability of alternative land ad-measuring only 1700 sqm.

ii) Now, MCD has come up with a layout plan whereby, they are trying to accommodate 53 applicants (some of which are illegal) in one shopping complex. Thereby, taking a U-turn from its own commitment and resultantly, reducing the proportion size of holding of petitioners herein.

One “Flat” per “Owner” irrespective of size of holding- Highly defective and fallacious criterion (Clause no. 4 of the final criterion)

iii) Learned Division Bench *vide* order dated 23.08.2011 categorically recorded that the petitioners therein are running shops from the current location and therefore, change of land use may also be required. Now, the respondent/ NDMC is offering a “Flat” as against a “Shop”, which is contrary to the entire scheme of compromise envisaged by the learned Division Bench.

iv) There are various applicants owning properties of different sizes and situated at different floors. Some of the petitioners do not have existing proportionate land holding of more than 2-10 sq. mtr., while there are others who are having existing proportionate land holdings of more than 50 sq. mtr. The final list dated 26.02.2014 and final criterion dated 11.12.2013 makes no reference to the same and do not cater to such situation. On the contrary,



respondent attempts to avoid the entire problem by holding that only one flat will be awarded per owner irrespective of the size/ number of land holdings. Thus, alternative plots/ shops should be allotted to the petitioners and other similarly situated persons on “proportionate basis” *i.e.* directly in proportion to the land holding of a particular person.

v) Such lottery by way of allotment of one flat per candidate irrespective of the size of land holdings, will be made by the respondent to all such applicants at the cost of those applicants, who will loose out their major chunk of proportionate land holdings in the process.

Plot ought to have been allotted

vi) As recorded in order dated 06.07.2011 in W.P.(C) 1852/2010, para 5 of the Regularization Scheme states that alternative plots are to be provided on reasonable basis to persons, where plots are covered in the public utility areas. Order dated 23.08.2011 in W.P.(C) 1852/2010 further records that MCD had discussion regarding rehabilitation of petitioners therein. Meaning thereby, the discussion of rehabilitation on 1700 sqm. of land was limited to the petitioners therein.

vii) An Affidavit dated 01.02.2012 was filed by the NDMC in W.P.(C) 1852/2010, wherein it was categorically stated that plots will be given to the eligible applicants. Admittedly, petitioners herein are eligible applicants, however, they are being offered a shop in a shopping complex rather than a plot. Further, MCD stated that there was no other conditions other than set out in the said affidavit and the same has been recorded in order dated 03.10.2012



in W.P.(C) 1852/2010. Thus, giving plots to the petitioners was final. Moreover, the said order dated 03.10.2012 records that “*reference to rehabilitation process is to the handing over of the land in question*”.

viii) There is no condition of handing over of plot to individuals in the final criterion dated 11.12.2013.

Land use has to be changed to “Commercial” and not to “Mixed land use” or else, respondent would not be acting in compliance of the order dated 23.08.2011

ix) Learned Division Bench *vide* order dated 23.08.2011 made it absolutely clear that the petitioners are running shops and therefore, change of land use may also be required. The same specifically means that change of land use in the context of making petitioners enable to run shops from the rehabilitated location.

x) Punjabi Basti street was identified as “Commercial street” way back in the year 2007 and the conversion charges are being paid for commercial. In fact, a conjoint reading of order dated 23.08.2011 and the existing situation of all shopkeepers, makes it absolutely clear that the alternative site has to be commercial in nature.

xi) Now, if the respondent only obtains approvals for mixed land use, it would not be possible for the petitioners, who will be allotted property on first floor and the second floor to run any shops and the same, would defy the order dated 23.08.2011.



Final criterion suffers from vagueness and is silent on the material issues

xii) Final criterion does not lay down any particulars as to how the flats are proposed to be allotted to the final eligible candidates, how to deal with the shopkeepers running their shops from different floors and how they will be accommodated in the alternative lands.

xiii) Final criterion is silent on whether any priority or precedence will be given while allotting floors to those shopkeepers, who were running their shops from a concerned floor. For example, if a shopkeeper was running a shop on ground floor, whether the alternate allotment would be given to the concerned shopkeeper on the ground floor itself or they will be in the general pool of all eligible candidates.

xiv) The final criterion does not lay down the size of the flats and no map/plan has been made by the respondent for the purposes of dividing the alternative piece of land in different flats.

Family Partition/ Artificial Partition

xv) Some families have started making fictitious partitions amongst its own family members, so as to project a case for different properties for different family members.

xvi) Some cases may be genuine, who have already done a genuine partition for all practical purposes. Be that as it may, it would be extremely difficult for the respondent to assume a *quasi* judicial role to decide as to which family



settlement is genuine and *bonafide* and which one is fictitious. In any case, it will give rise to innumerable disputes, with the respondent being involved as a party to all such proceedings.

Construction at alternate site

xvii) Even after the respondent agrees that the land use is to be changed to commercial, it is incumbent upon the respondent to carry out construction at the alternative site or else it would be impossible to implement rehabilitation policy. Respondent can fix a reasonable price for carrying out the construction, which can be asked to be deposited by the concerned applicants on construction linked based scheme.

xviii) If property is allotted to an applicant on second floor, such applicant can not be expected to close his shop at existing location and wait for the construction to be completed at the alternative site. Therefore, reasonable time ought to be granted by the respondent for carrying out construction at alternative site or the respondent can undertake construction itself.

Cannot reduce the size of alternate accommodation to such an extent that it is of no practical purpose

xix) If the respondent propose to use the alternative site under the mixed land use and reduce the size of flat to 25 sq mtr., it effectively result in nullifying the intent of order dated 23.08.2011. In the first instance, the properties at the first and second floor will not be utilised for running shops and as such the purpose of the order of the learned Division Bench will be defeated. Moreover, a property admeasuring 25 sq mtr. on first and second



floor, permitted only for residential usage would be of no benefit. Thus, neither the said small portion could be used as a residential accommodation nor for commercial activity.

xx) Respondent ought to place the first nine petitioners on a higher pedestal than the remaining applicants, who have approached this Court subsequently. It is not the case of the petitioners that the first nine petitioner should be given entire alternative site but the respondent should ensure that a plot of reasonable size ought to be provided to the first nine petitioner. If after making allotments to nine petitioners, surplus land is available, the same can be used for making allotments to other Writ petitioners/ eligible persons.

Clause 8 frustrates Order dated 10.04.2012

xxi) Clause 8 of the final criterion stating that eligible applicants will be required to form a cooperative group housing society and it shall deposit the cost of entire land within 45 days of the issue of eligible list of applicants and that the cost of construction will be borne by the said society, frustrates the purpose of the compromise and overlooks the order dated 10.04.2012 passed by the learned Division Bench. On the said date, a similar suggestion was made by the respondent before the learned Division Bench and the same was denied by the petitioners stating that there are various group/ individual cases and therefore, it was not possible to form a common group of all eligible candidates, who can form a society for the rehabilitation purposes.

xxii) Thus, it is not possible to form a cooperative group housing society as various applicants for rehabilitation have conflicting interests.



Illegal persons have been held eligible

xxiii) Shops of persons marked at serial no. 5, 10 and 14 is only 10-30% effected under the Land Acquisition proceedings. However, they are being offered alternative flats of equal size and holding as those of the petitioners herein. Further, the aforesaid persons have their shops situated in the basement and do not have any roof rights. Moreover, if the land holdings is divided into the number of occupants from basement to the third floor, and the affected portion of their land is calculated, the aforesaid persons would stand to lose only about 1-2 sq. yd. of their ownership of land as against more than 50-80 sq. yd. of land of each petitioner, but all of them have been placed on same pedestal.

xxiv) With respect to person at serial no. 22, the owner of the shop has moved a separate file before the respondent being file no. 70 and the tenant of the said shop has moved a separate file bearing no. 82.

xxv) Insofar as persons earmarked at serial number 23-25 and 38-39, artificial divisions have been created by them prior to submitting the application before the Respondent and based on those artificial divisions between persons of same family, separate flats have been allotted by the respondent. With respect to persons at serial no. 38-39, the perversity in the decision of respondent can be made out from the fact that one shop has been allotted on the first floor, which does not have any opening on the first floor and another shop is allotted on the ground floor, which has an internal opening into the first floor. Further, persons at serial no. 40 and 41 are



husband-wife and again artificial division has been created just before submitting the file to the respondent for laying claim to different flats.

xxvi) Persons at serial no. 31 and 32 do not even form part of land acquisition proceedings and they are not affected at all. Further, Mr. Narender Kumar S/o Rattan Lal at serial no. 51 of the final list dated 26.02.2014 is illegible as no such plot as mentioned at the said serial no. exist in Punjabi Basti nor such person was ever heard of.

xxvii) Moreover, 13 persons at serial no. 21, 23-25, 31-32 and 35-41 are holding agricultural land and their land is situated outside the layout plan of Punjabi Basti. These 13 persons cannot be equated with other persons

How compensation for the petitioner's land is proposed to be adjusted?

xxviii) Respondent is silent on how the compensation for the petitioner's lands to be acquired under the LA Act is to be accounted for the alternative lands and how the same is proposed to be adjusted.

Representation not disposed of till date

xxix) Respondent has chosen not to dispose detailed representation dated 19.10.2012 made by the petitioner no. 1 herein in terms of order dated 03.10.2012.

5. Refuting the submissions made on behalf of the petitioners, learned Counsel for the respondent/ NDMC made the following submissions:-



i) Punjabi Basti was a residential unauthorized colony, which was subsequently regularized by the Government of India in the year 1982. However, the said area was declared as mixed land use. Therefore, premises situated therein could be used for commercial purposes subject to payment of conversion charges.

ii) The final criterion has been stipulated by the respondent after carrying out a detailed exercise, in view of the fact that the land available for rehabilitation was very limited. Various conditions of the criterion were also placed before the learned Division Bench. Interested persons had also filed their representations with respect to the terms and conditions and the said representations were accordingly considered before the final criterion was laid in consonance with the Relocation and Rehabilitation Policy of the Government of National Capital Territory of Delhi. Further, only those persons are included in the list of eligible persons, whose land is affected by the acquisition.

iii) Total compensation as awarded by the Land Acquisition Collector (hereinafter referred to as "LAC") in its award no. 03/DC(W)/2011-2012 dated 23.02.2012 was Rs. 63,44,909 and the said compensation has already been deposited by the respondent with the LAC. Further, shifting of utilities such as water line, sewer line, underground cables and electric poles, which were coming in the alignment of proposed ROB/ RUB and requisite payments have already been deposited to the respective agencies such as Delhi Jal Board, Bombay Suburban Electric Supply, Tata Power Delhi Distribution Limited etc.



iv) The petitioners by way of the present petition wants themselves to be placed on a higher pedestal than other applicants, who have approached this Court subsequently. However, such special treatment is not possible as they cannot seek any special treatment at the detriment of other eligible persons. Further, learned Division Bench *vide* order dated 10.04.2012 had also categorically directed that the benefit of rehabilitation shall be available to other persons subject to eligibility and availability of land.

v) Further, the submission raised on behalf the petitioners that all persons are offered alternative units of equal size and holding is wrong. Different eligible persons are being entitled different areas of units on the basis of their present holding and the layout plan has been cleared on the said basis only. Thus, the petitioners and other eligible persons will be rehabilitated on pro-rata basis, which has been categorized as under:-

S. No.	Area affected	No. of units	Area proposed
1.	Upto 10 sqm	18	2.00*3.00=6.00 sqm
2.	10.01 sqm to 20 sqm	14	4.00*3.00=12.00 sqm
3.	20.01 sqm to 60 sqm	14	4.00*5.00=20.00 sqm
4.	60.01 sqm to 100.00 sqm	6	4.00*7.00=28.00 sqm
5.	Above 100.00 sqm	2	8.00*7.00=56.00 sqm

vi) Since the availability of land, where petitioners and other eligible persons are to be rehabilitated, is very limited a criterion has been laid down by the respondent. One unit is being offered to each eligible person and the



petitioners can not claim more number of units over the others on the basis of existing holding.

vii) The petitioners cannot claim for further benefit by praying that the respondent ought to carry out construction for the petitioners. The respondent has been very clear since the beginning that the construction at the alternative site shall be carried out by the eligible persons themselves.

viii) The issue regarding rehabilitation of the petitioners and other eligible persons on the land provided by the DUSIB, already stands settled before the learned Division Bench of this Court. The petitioners and other affected persons had already accepted that eligible persons shall be rehabilitated upon the land made available by the DUSIB. Therefore, the said issue cannot now be opened by the petitioners by contending that the respondent can find another available plot for rehabilitation purposes.

ix) The submission made by the petitioners regarding the benefit of rehabilitation being given to the persons whose only small area is affected is wrong. 95% and 90% of the area of shop of persons at serial no. 5 and 10 respectively is affected by acquisition. Further, with respect to person at serial no. 14, whose only 15% of the area of shop is affected, the department took a holistic view in order to include him in the list of eligible persons. The department considered the fact that as per the layout and alignment of the project being constructed, service road and drain shall be constructed along the rest of the area, which has not been acquired. Thus, the access towards the remaining portion of the shop of person at serial no. 14, shall be permanently



closed. Thus, in view of these ensuing factors, the person at serial no. 14 has been included in the list of eligible persons for rehabilitation.

x) The submission on non-eligibility of person at serial no. 22 is also wrong. Since, only the owner of the shop at serial no. 22 has been held as eligible and the tenant has not been considered as eligible.

xi) Further, as per local enquiry, persons at serial nos. 23 to 25 are father and two sons and persons at serial no. 38 and 39 are brother and sister. The documents submitted by the aforesaid persons were scrutinized by the committee and it was found that separate shops were existing of the aforesaid persons for a long time. The said individuals had also deposited their conversion charges with respect to their respective holding long time ago. Their documents as per the criteria laid by the department were found to be in order, therefore, their names were added in the list of eligible persons for rehabilitation.

xii) The submission raised by the petitioner that persons at serial no. 31 and 32 do not form part of land acquisition proceedings is wrong. The department has considered only those persons who are affected by the acquisition. Their documents were also scrutinized by the concerned committee and they were found eligible as per the criterion laid. Moreover, persons at serial no. 40 and 41 have their respective separate shops in existence since long. Separate documents including conversion charges for separate shops exist and they have been included in the eligible list on the basis of their respective existing documents.



xiii) Further, with respect to person at serial no. 51, a shop existed in the acquired area earlier, however, the same was demolished in 2012. Documents shown by the person at serial no. 51 are found to be in order and his name was included for rehabilitation accordingly. Moreover, 13 persons at serial no. 21, 23-25, 31-32 and 35-41 are running shops over their respective lands, which are affected by the acquisition proceedings. These persons have also paid conversion charges and are running their commercial businesses from their respective holdings. Thus, these persons are similarly situated as the petitioners herein and are affected by the acquisition for the purposes of the project in question.

xiv) As far as compensation for acquisition is concerned, the respondent has already deposited full amount of compensation with the LAC and the said amount of compensation payable to the affected persons is a totally independent and separate exercise. Thus, it has no concern with the alternative units being provided to eligible persons for rehabilitation.

6. Refuting the stand taken by the NDMC/ respondent, learned Counsel for the petitioners submitted that:-

i) The petitioners claims rehabilitation on priority basis not only because petitioners herein were first to approach this Court but for the reason that it was only the petitioners herein with whom respondent entered into a compromise and in lieu of the said compromise, petitioners herein has given up all their pleas with respect to quashing the land acquisition proceedings. Further, with respect to the compromise entered *vide* order dated 23.08.2011



between the petitioners herein and the respondent, following things are important to note:

- a) Order dated 23.08.2011 records that the writ petition therein has been compromised on account of respondent agreeing to rehabilitate the petitioners therein on the alternative piece of land available opposite to Punjabi Basti.
- b) The aforesaid order makes no reference to all persons affected by acquisition or extension of benefit to all, and is limited in its applicability to petitioners and respondent herein.
- c) In one of the respondent's meetings prior to compromise, it was recorded that if everyone is to be rehabilitated, land ad-measuring 3950 sq. m. would be required. Thus, the respondent was fully aware before entering into compromise that the small piece of land available for rehabilitation would not be able to accommodate all affected persons.
- d) None of the subsequent writ petitions challenged the land acquisition proceedings. These petitions were filed belatedly, claiming extension of similar reliefs only. As such, learned Division Bench *vide* order dated 10.04.2012 directed rehabilitation of affected persons "*subject to eligibility and availability of land*". Thus, there was no mandate to rehabilitate all at the cost of the petitioners.
- e) LA Act does not vest any right to rehabilitation but compensation with the persons whose lands are acquired. Right to rehabilitation of the petitioners herein arise out of the said compromise. Consequently, the right and benefit arising out of the said compromise shall be afforded first to the petitioners herein thereafter to any other person.



f) The said compromise was entered into between the petitioners and respondent and it was not an open-ended compromise.

g) The respondent is bound by the order dated 23.08.2011 passed on the basis of the said compromise and the proposed move on the part of the respondent constitute violation of orders of this Court.

ii) Reference made by the respondent to the order dated 03.10.2012, suggesting that the respondent's obligation under the compromise and orders of the learned Division Bench comes to an end by handing over of the rehabilitation land is misleading. Learned Division Bench had passed the said order pursuant to the respondent's affidavit dated 01.10.2012 laying down the criteria for rehabilitation. In the said criteria, as per clause (ix) thereof, the respondent sought to create an impression that it would be carving out plots in the alternative land meant for rehabilitation and it would be allocating plots to all eligible applicants. The said clause reads as under:

“(ix) The plots will be given to the eligible applicants subject to the condition that the proportionate cost of entire land measuring 1162.295 sqm paid to the erstwhile slum and JJ Department (now DUSIB) will be borne by the eligible applicants and the cost of construction will also be borne by them”

Thus, the respondent had shown its inclination to handover plots directly to the eligible applicants, which persuaded learned Division Bench to record an order dated 03.10.2012 that the rehabilitation process relates to handing over of land in question. In this context, a specific query was also raised by the counsel for the petitioners on 03.10.2012, asking the respondent to clarify as to whether there are any other conditions. In response to the same, the respondent clarified that the other conditions refer only to the conditions set



out in the affidavit. However, as against the above, when the final criterion was published, clause (ix) was missing. As per the understanding of the petitioners, nobody had objected to clause (ix) by way of filling any representation to the contrary. In such circumstance. There was no occasion for the respondent to have removed the said clause from the final criterion. If the petitioners are not handed over specific plots on the alternative land and the criteria is changed to a shop in a building or otherwise, the petitioners would virtually be left at the mercy of those who will be handed over the possession of the land at the ground floor, which was not the intention of the learned Division Bench while passing the order dated 03.10.2012.

iii) In W.P.(C) 1852/2010, an affidavit dated 05.01.2012 was filed by the MCD recommending formation of 'association' for management and distribution of land. The same was objected by the petitioners therein before this Court, as there were conflicting claims and the same was also recorded in the order dated 10.04.2012. As a result of the aforesaid objection raised, the criteria drawn by the MCD as per the affidavit dated 01.10.2012 made no reference to the formation of any association at all and importantly, as stated earlier, respondent had already clarified that the all conditions refer only to the conditions set out in the affidavit. Therefore, no association was required to be formed.

iv) Contention with respect to person at serial no. 51 being eligible is wrong. Address mentioned against serial no. 51 does not exist and the said entry doesn't even mention any block, which is mentioned for all other entries. Further, insofar as persons mentioned at serial no. 31 and 32 are



concerned, the same are co-owners of a complex known as Maman Complex situated opposite Punjabi Basti. The said complex has 96 shops, and is owned by the legal heirs of one Mr Maman. Mrs Angoori Devi, appearing at serial no. 31 is the wife of late Shri Balbir Singh, who is son of late Mr Maman. Consequently, the respondent has deliberately violated condition no. 2 laid down in the final criteria, which reads as under:

“Only such owners will be eligible for consideration who are left with no other space in the same locality”

v) 13 persons mentioned at serial no. 21, 23 - 25, 31 - 32, 36 - 41 do not form part of Punjabi Basti and their land holdings are situated on the opposite side of Punjabi Basti. The land holdings on which these persons have built shops have not been regularized and still continue to be agricultural land holdings. Therefore, building shops on the land holdings and their continuation do not confer any right upon these persons to claim benefit of allotment of alternative lands.

vi) Further, persons at serial no. 1, 2 and 3 (*Thada Wala*) are not entitled for rehabilitation. The allotment with respect to the said ‘*thada*’ has been made purely on temporary basis and on license basis and same is valid for a period of 11 months. The lands given to *thada* occupants were owned by Slum and Jhuggi Jhopri Department (hereinafter referred to as “**Slum & JJ Dept.**”) and not by those *thada* occupants. Thus, the lands were never subject matter of acquisition. Moreover, the addresses mentioned against the serial no. 1, 2 and 3 does not even exist in Punjabi Basti. Accordingly, the area is not even coming under alignment or getting affected.



vii) Punjabi Basti Market Welfare Association, Nangloi/ Association to whom the respondent *vide* letter dated 13.03.2015 and 31.03.2015 raised a demand of Rs. 77,77,500/- towards the cost of the land, is not authorized to represent any of the petitioners herein. Moreover, Nangloi Market Welfare Association (Punjabi Basti) had also objected with respect to the said Association to the respondent *vide* letter dated 17.03.2015.

viii) No election of Association's office bearers has been conducted and no bye laws has been reframed as per term 5(e) of the lease deed. Though the respondent stated that allotment would be done by the Association through draw of lot, the Association made allotments of shops without any draw of lots. Further, Association's President/ Vice-President/ Other Officer bearers all are on ground floor.

ix) *Vide* order dated 23.03.2017, this Court directed the respondent to place on record finalised copy of the lease deed and supply a copy of the same to the petitioners. However, the respondent never placed finalised copy of the same, rather directly executed the lease deed in August, 2018 in favour of the Association without placing the draft of the same before this Court.

x) The respondent has unreasonably incorporated rent in the terms of the lease deed and the said lease deed does not define the cost sharing in construction. Further, there is no clarity how the transfer would happen from the Association to individual.

B. Petitions filed by Tenants-W.P.(C) 2160/2014 & W.P.(C) 1179/2017



7. The present petitions under Articles 226 of the Constitution of India, 1950 had been filed seeking identical prayers, which reads as under:-

“A. Writ, Order or direction that the notification, numbered EE(PR)III/RZ//2013-14/405, dated 11/12/2013, enunciating final criterion for drawing the list of eligibility for rehabilitation of individuals affected by construction of ROB/RUB at Sulatanpuri near Nangloi, suffers from illegality, malafide, arbitrariness and non-application of mind, and

B. Writ in the nature of certiorari quashing the notification, numbered EE(PR)III/RZ//2013-14/405, dated 11/12/2013, enunciating final criterion for drawing the list of eligibility for rehabilitation of individuals affected by construction of ROB/RUB at Sulatanpuri near Nangloi, and all the consequential proceedings arising thereto.

C. Writ, order and direction in the nature of mandamus to adequately compensate/rehabilitate the Petitioners by publishing a new rehabilitation scheme for individuals affected by construction of ROB/RUB at Sulatanpuri near Nangloi.

D. Pass such order that this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

8. Learned Senior counsel for the petitioners in both the petitions, made following submissions in support of present petitions:

i) Petitioners herein are legal tenants on the premises, which is being affected by the said acquisition and their names haven't been included in the list of eligible persons dated 26.02.2014. They have been running their respective business in the said premises for last more than 30 years, which is a sole source source of income for them and their family.

ii) Further, it is categorically stated in the impugned notification dated 11.12.2013 that since the land for rehabilitation is limited, only owners who have paid conversion/ parking charges in respect of their acquired property would only be considered for the purpose of rehabilitation. The said stand is



in violation of fundamental right guaranteed under Article 14 of the Constitution of India.

iii) In terms of statutory provisions of the Land Acquisition Act 1894 and various Judgments of various High Courts and Supreme Court of India, every person including the statutory tenant is entitled to compensation/ rehabilitation on account of acquisition, for the reason of having substantial interest in the land/ property being acquired. However, *vide* the impugned notification, tenants has been excluded for the purpose of considering them for the grant of compensation/ rehabilitation on account of the said acquisition. Thus, NDMC has acted arbitrarily by merely extending benefits to the landlords, despite the fact that both the petitioners herein and their respective landlords stands on similar footing.

iv) NDMC before publishing the impugned notification was under an obligation to provide an opportunity of hearing to the petitioners herein in respect to their respective objections dated 15.10.2012 and then decide them. Similar view had been adopted by the Supreme Court of India in Lajja Ram and Ors. v. Union Territory, Chandigarh and Ors.¹.

v) NDMC failed to appreciate that the petitioners herein are ‘persons interested’ as defined in Sections 3(b), 5A(3) and 9(3) of the LA Act. Hence, they are entitled to the claim of rehabilitation and compensation provided for in the said Act.

¹ (2013) 11 SCC 235



vi) In the process of Land Acquisition, both the owner and the tenant (having sufficient subsisting interest in the land being acquired) has right to rehabilitation and compensation. Similar view was adopted by the Supreme Court in *UOI v. Krishan Lal Arneja*².

9. Refuting the submissions made on behalf of the petitioners, learned counsel for NDMC, made following submissions:

i) NDMC received 251 applications from the persons aggrieved by the terms and conditions of the draft criteria. The said applications along-with the documents submitted therein were duly considered by the committee formulated for this purpose. Detailed deliberations were carried out, after which the final criteria dated 11.12.2013 was laid. NDMC was not required to individually inform each person, as the list of eligible persons was circulated after considering the documents submitted by each applicants.

ii) This Court in *W.P.(C) 1852/2010* indicated that the affected persons will be rehabilitated subject to eligibility and availability of land. Therefore, an eligibility criteria was laid down by the NDMC, as all affected persons cannot claim alternative land as a matter of right. This implies that this Court was in agreement that the criteria for eligibility had to be laid down by the NDMC for the purposes of rehabilitation and alternative allotment to the affected persons was not to be granted as a matter of right to all the affected persons. Further, no one has vested right to claim alternative plot and reliance for the same can be placed upon *Ramanand & Ors. v. UOI & Ors.*³

² (2004) 8 SCC 453

³ AIR 1994 Del. 29



iii) As per the final criteria, only owners would be considered for rehabilitation and similar prohibition is also made in the Rehabilitation Policy formulated by the Delhi Government. Petitioners herein being tenants do not fulfill the eligibility criteria and thus, they are not entitled to rehabilitation. The alternative plots are given as per the policy framed by the Government from time to time and reliance for the same can be placed upon Ravi Khullar v. UOI & Ors.⁴

iv) Compensation is to be paid to the eligible persons by the LAC as per their policy. The amount in this regard has already been deposited by the NDMC with the LAC.

v) NDMC has done its best to accommodate as many people as possible in the limited space made available with DUSIB for the purposes of rehabilitation.

10. Learned Counsel for DUSIB in **W.P.(C) 2160/2014** submits that the instant petition is liable to be dismissed against the DUSIB on following grounds:

i) No relief has been sought against the DUSIB and list of eligible occupants and all actions for rehabilitation are to be done by the NDMC as per their policies.

⁴ 2007 (5) SCC 231



ii) It is admitted by the petitioners in their own averments that they are not eligible for rehabilitation as they are seeking adjustment without showing their right to rehabilitation.

11. Refuting the stand taken by the respondents herein, learned Senior Counsel for the petitioners submitted that:-

i) NDMC has totally negated the fundamental rules which had to be considered for the purpose of rehabilitation of the people affected by the acquisition process. Compensation is provided to persons who have an interest as understood in law in the property/ land which is taken away; for receipt of compensation one has to have an interest in the land or easement affecting the land *i.e.* whether as owner or tenant, etc. However, rehabilitation is provided to persons who are affected by the land or property being taken away *i.e.* those who are displaced; for receipt of rehabilitation benefits *i.e.* being restored to former ability can only be for such person or family whose livelihood is affected by the displacement.

ii) In the event that an owner is not in possession of the property being taken away and the same is with a tenant, then the owner would be entitled to his proportionate share of the compensation (pertaining to ownership rights) while the tenant would be entitled to be rehabilitated *i.e.* restored to the right of usage for purposes of his livelihood in addition to his proportionate share of compensation (pertaining to possessory rights).

iii) NDMC failed to take into consideration the provisions of Land Acquisition Act, 1894 and new Land Acquisition Act, 2013, which gave



utmost importance to the tenants located in the acquired properties. Both of the said acts clearly identifies the plight of the people whose properties have been compulsorily acquired and taken away for public purposes. These people not only include the owners of the acquired properties but also tenants, licenses, mortgages and various other categories of people, who were in possession of the acquired land. All the said persons were identified as "interested persons" and were given equal rights in the amount of compensation as well as any benefits arising there from. Reliance for the same is placed upon Section 3(b) of Land Acquisition Act, 1894 and Section 3(c), 3(x) of new Land Acquisition Act, 2013.

iv) Petitioners are protected under the Delhi Rent Control Act, 1958 (hereinafter referred to as “DRC Act”), grant of alternative property to landlord/ owner without restoration of the tenants in the same would tantamount to circuitous contrivance.

v) In UOI & Ors. v. Kishan Lal Aneja⁵ and Essex Farms P. Ltd. v. UOI & Ors.⁶, rights of tenants as interested persons in acquisition proceedings was recognized.

C. Petition filed by occupants of thada/stall holders-W.P.(C) 3733/2014

12. The present petition under Articles 226 of the Constitution of India, 1950 seeks the following prayers:

“A. Issue an appropriate writ, order or direction for quashing the Notification bearing NO.EE (PR)III/RZ//2013-14/405 dated

⁵ AIR 2004 SC 3582

⁶ 2007:DHC:734-DB



11.12.2013 and list of allottees bearing no. EE(Pr)III/RZ//2013-14/541 dated 26.02.2014 issued by respondent and

B. Issue an appropriate writ, order or direction directing the respondents to rehabilitate the petitioners on the same plot as directed by Division Bench of this Hon'ble Court and agreed upon by MCD in terms of order dated 06.07.2011 passed by this Hon'ble Court in W.P.(C) No. 1852 of 2010 or directing the respondents to allot some other appropriate alternate site to the petitioners, preferably near Nangloi, if the plot at opposite side of Punjabi Basti is not sufficient to accommodate all the petitioners;

C. Pass such order or further orders that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

13. Learned counsel for the petitioners herein, in support of the present petition, submitted that:-

i) The petitioners herein had *bonafidely* purchased their respective thadas/ stalls from the original allottees after paying consideration and have been running their shops on the thada/ stall for the last more than 25 years.

ii) In final criteria dated 11.12.2013 framed by the NDMC, their thrust is to reject the claim of maximum number of affected persons on extraneous grounds rather than rehabilitating the maximum number of affected persons in the spirit of the order passed in W.P.(C) 1852/2010. NDMC has arbitrarily rejected the claim of the petitioners under clause 3 of the said criterion *i.e.* only on the ground that the petitioners herein are not the original allottees of their respective stalls/ thadas.

iii) In the year 2008, 18 stalls/ thadas of different persons, who were similarly situated to the petitioners herein and were not the original allottees, were demolished under the Delhi Metro Railway Project on Rohtak Road,



Nangloi. All of the said affected persons were allotted alternative stalls (unbuilt) by DUSIB, which was at that relevant time was one of the department of NDMC. However, now NDMC is denying alternative allotment to the petitioner herein, solely on the ground that the petitioners herein are not the original owner of the respective thadas/ stalls. There is no reasonable basis for differentiating between petitioners herein and the aforesaid persons, who were allotted alternative plots by NDMC in 2008.

14. Refuting the submissions made on behalf of the petitioners, learned Counsel for the NDMC submitted that:

- i)** Thadas were allotted by Slum & JJ Dept. on license basis. The original license owners in violation of their terms of license, sold the thadas to the present occupants. The petitioners herein cannot claim an independent right of occupation as license was non-transferable.

- ii)** Compensation is already being granted to the petitioners herein. Consideration for alternative allotment of plot by NDMC is over and above the compensation being paid for acquisition. Therefore, the petitioners herein cannot seek rehabilitation and alternative allotment of plot as a matter of right.

- iii)** Eligibility criteria cannot be amended solely to accommodate the petitioners herein, when they are only license holders and have no interest in the land. Further, NDMC is a separate body and has nothing to do with the policies formulated by the Delhi Metro Rail Corporation.



15. Learned Counsel for DUSIB made similar submission as made in W.P.(C) 2160/2014.

D. Petitions filed by eligible persons, challenging vacation notice/ demolition order issued by NDMC- W.P.(C) 2113/2016, W.P.(C) 940/2017 & W.P.(C) 3192/2016

W.P.(C) 2113/2016

16. The present petition under Articles 226 of the Constitution of India, 1950 seeks the following prayers:

- A. Writ, order or direction quashing the vacation notice dated 04-03-2016 issued by the Respondent no.2 and directing Respondent not to disturb the peaceful possession of the Petitioners in respect of their lands/properties situated at Punjabi Basti, Nangloi, Delhi;
- B. Pass an order allowing the costs of the present writ petition in favour of the Petitioners and against the Respondent;
- C. Pass such order or further orders that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

17. Learned counsel for the petitioners in support of the present petition submitted that:

- i) Vacation notice dated 04.03.2016, amounts to playing fraud in view of the assurance made on behalf of the NDMC on 24.08.2015 in W.P.(C) 3152/2015. On the said date, this Court had enquired from the learned Counsel appearing on behalf of the NDMC that whether there is any intention on their part to take possession, to which the learned Counsel appearing on behalf of the NDMC assured orally that since the matter is being heard finally, no such steps will be taken.



ii) In view of W.P.(C) 3152/2015 and other writ petitions challenging the list of allottees dated 26.02.2014, vacation notice dated 04.03.2016 does not only renders the said writ petitions infructuous but also attempts to overreach the jurisdiction this Court in matter which is *subjudice* before this Court.

iii) Handing over of the alternative land to the Association (formed by just few eligible members) is illegal because it was incumbent upon the NDMC to verify that all the eligible persons, who have been stated in the list of allottees, are members of the said Association. Further, such handing over would also be invalid because the petitioners herein would be at the mercy of the Association during the process of rehabilitation, as no terms and conditions have been laid down by the NDMC to the Association before handing over alternative land in question.

18. Refuting the submissions made on behalf of the petitioners, learned Counsel for the NDMC submitted that:

i) Eligible persons except the petitioners herein have already formed their welfare association *i.e.* Punjabi Basti Market Welfare Association, Nangloi/ Association. The petitioners herein have not deliberately become part of the said Association and now they claim that till possession is handed over to them, they cannot be dispossessed from the acquired land in question. Since possession of alternative land, where eligible persons are to be rehabilitated has already been handed over to the aforesaid Association, the petitioners herein may be given directions to become part of the said Association.

ii) The petitioners herein cannot be allowed to take advantage of their own



wrong. On one hand the petitioners have not joined the Association and on the other hand, the petitioners contend that they have still not been handed over alternative land, when alternative land has already been handed over to the aforesaid Association.

iii) Petitioners herein prayer with respect to not to disturb their possession of the land at Punjabi Basti is misplaced. The petitioners have no right, title or interest over the said land as the said land has already been acquired. Further, the acquisition proceedings have attained finality after the petitioners herein withdrew their challenge to the acquisition and accepted rehabilitation in addition to the compensation amount payable.

iv) It is denied that there are no terms and conditions laid down for handing over of the alternative land in question. In earlier affidavit filed before the learned Division Bench of this Court and in the affidavit submitted in W.P.(C) 3152/2014, it has been stated that the Association may get the building plan sanctioned in consonance with the layout plan of the area as approved by the NDMC and in consonance with the proportionate area of the shop which each individual is entitled to allotment. NDMC has already specified the area of shops to be allotted to each eligible persons and has also specified the proportionate amount to be shared by each eligible persons. Further, it has been stated that other steps regarding conduct of draw of lots for purposes of allotment of units to each eligible persons, would have to be essentially carried out by the Association so formed by the eligible persons. Land use for allotment of alternative place for rehabilitation has already changed from open to commercial *vide* resolution no. 77 dated 01.07.2015 by



standing committee.

v) Reliance placed by the petitioners upon an oral statement made by the NDMC on 24.08.2015 is totally misplaced. The statement, if any made upon instructions, may be relevant at that time when the matter was taken up for hearing. However, much time has elapsed since then and thus, the petitioners cannot contend to rely upon the same.

vi) The petitioners cannot expect that the NDMC will get involved in the construction of a shopping complex for the eligible persons as NDMC is already involved in major construction of a public project in question. Be that as it may, the machinery of the state cannot be put to use for self serving interests of certain private individuals.

vii) As per the directions of Learned Division Bench of this Court, rehabilitation process stood completed by handing over the land for rehabilitation to the Association, which represents interest of the eligible persons.

viii) Petitioners contention as regards several disputes between the petitioners and members of the Association, is again totally misplaced. The petitioners have been raising frivolous disputes as regards the eligible persons and refusing to cooperate by not becoming member of the Association formed by group of eligible persons. Thus, the petitioners cannot be allowed to stall the process of rehabilitation or progress of public project by raising one or the other objection.

**W.P.(C) 940/2017**

19. The present petition under Articles 226 of the Constitution of India, 1950 seeks a similar prayer as above, which reads as under:-

- “a) Issue an appropriate writ, order or direction for quashing the Impugned Notice bearing No.EE(Pr)-I/RZ/NDMC/2016/1734 dated 27.01.2017 issued by respondent or
b. Pass any other order which this Hon’ble Court deems fit in the interest of justice.”

20. Learned counsel for the petitioner, in support of the present petition, submitted that:

- i)** Till date respondent has not allotted alternate land to the petitioner in terms of order dated 06.07.2011 or any compensation, though the petitioner have paid the cost of land to the Association formed for the purpose of collecting the cost of land.
- ii)** This Court *vide* order dated 11.03.2016, stayed operation of the vacation notice dated 04.03.2016, with respect to building D-1, in which shop of the petitioner herein is situated. On 20.01.2017, in W.P.(C) 3152/2014, NDMC submitted that the list of eligible persons dated 26.02.2014 is still under consideration, which means that the same was not final. It was further recorded on the said date that to whom land will be handed over will be decided on the next date. When stay granted by the Hon’ble Division Bench in favour of the petitioner was still in operation, NDMC in utter violation of the stay issued impugned vacation notice dated 27.01.2017 directing the petitioner to vacate the premises within 48 hours.



iii) NDMC in para 9 of its short affidavit dated 01.10.2012 in W.P.(C) 1852/2010 had specifically stated that eligible persons were required to form association for the purpose of collecting the cost of land and depositing the same with the respondent. It was never ever the case of NDMC that the land would be handed over to the said association. NDMC by handing over the land to the Association is shrugging of its responsibility and undertaking entered into.

21. Refuting the submissions made on behalf of the petitioner, learned Counsel for NDMC submitted that:

i) The petitioner is already a member of the Association, which has already been handed over the land for rehabilitation of eligible persons. The petitioner and other applicants are being rehabilitated on alternative land, which is an additional benefit given to the petitioner herein over and above the amount of compensation for acquisition.

ii) Now it is for the Association to handover the shops to the individual eligible persons after constructing the shopping complex. The entire compensation amount has also been paid by the NDMC to the LAC as per their policy.

W.P.(C) 3192/2016

22. The present petition under Articles 226 of the Constitution of India, 1950 seeks the following prayer:-

“(a) Issue a writ, order or direction quashing any order/notice issued by the respondent for demolition of the petitioner's shop.

(b) Direct the respondent to not interfere with the possession of the



petitioner qua the said shop till the petitioner is rehabilitated as per the scheme.

(c) Award damages to the petitioner for illegally partially demolishing his shop

(d) award the costs of his petition in favour of the petitioner.”

23. Learned counsel for the petitioner, made the following submissions in support of the present petition:

i) The petitioner stands at serial no. 1 of the final list dated 26.02.2014, published by the NDMC.

ii) LPA No. 585/2014 was disposed of *vide* order dated 05.02.2015, in view of the categorical statement made on-behalf of the NDMC that the petitioners therein will not be dispossessed until alternative site is offered to them. Subsequently, petitioner herein was waiting for the rehabilitation process of start. However, on 11.04.2016, NDMC carried out a demolition drive and a part of the petitioner’s shop was demolished. Notably, no vacation/ demolition notice was served upon the petitioner herein.

iii) The petitioner never approached this Court earlier because no notice was received by him and he was protected by the NDMC’s statement made before the learned Division Bench of this Court.

iv) Rehabilitation process is in its nascent stage and no handing over of plots/suitable land has taken place. NDMC has only published a list of eligible persons for rehabilitation, with no specifics as to the identity of alternative land or plot.



v) No alternative land/plot/shop has been offered to the petitioner till date and the NDMC have still gone ahead with the demolition drive, thereby going back on their own assurances.

24. Refuting the submissions made on behalf of the petitioner, learned Counsel for NDMC submitted that:

i) Land for rehabilitation has already been handed over to the Association formed by the eligible persons, in which the petitioner herein is also a member. Thus, the process of rehabilitation is already complete in terms of the order passed by the learned Division Bench of this Court.

ii) The Association of eligible persons ought to take requisite steps with respect to the construction of shops on the alternate land handed over to it. Further, all the details as to the layout as per which the commercial complex has to be constructed, the proportionate area of the shop to which each eligible person is entitled and the fact that the construction has to be carried out by the Association itself, have already been intimated to the Association of eligible persons and they are aware of the same. Thus, the petitioner herein has no locus to continue with the possession of the land in question occupied by them, as the same already stands acquired. Once the acquisition has become final, the petitioner has no legal or vested right to continue with the possession of acquired land.

iii) Role of the NDMC ends at handing over the land to the Association formed by eligible persons. Further steps for construction of shopping complex has to be essentially taken up by the eligible persons themselves.



E. Petitions filed by owners of shops, who have not paid conversion charges till the cut-off date i.e. 10.04.2012-W.P.(C) 2731/2014, W.P.(C) 2735/2014, W.P.(C) 8508/2014, W.P.(C) 8325/2014 & W.P.(C) 10103/2016

25. The present petitions under Articles 226 of the Constitution of India, 1950 seeks similar prayers, which reads as under:-

“a) Issue an appropriate writ, order or direction for quashing the Impugned Notification bearing NO.EE (PR) III/RZ//2013-14/405 dated 11.12.2013 and the List of allottees bearing no. EE(Pr)III/RZ//2013-14/541 dated 26.02.2014 issued by the respondent and

b) Issue an appropriate writ, order or direction directing the respondent to rehabilitate the petitioners on the same plot as directed by the Division Bench of this Hon’ble Court and agreed upon by MCD in terms of order dated 06.07.2011 passed in W.P.(C) No. 1852 of 2010 or directing the respondent to allot some other appropriate alternate site to the petitioners, preferably near Nangloi, if the plot at opposite side of Punjabi Basti is not sufficient to accommodate all the petitioners;

c) Pass such order or further orders that this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”

26. Learned counsel for the petitioners in support of the present petitions submitted as follows:-

i) Petitioners herein have been denied the benefit of rehabilitation on the grounds of non-payment of conversion charges as on 10.04.2012, which is provided in clause 2 of the impugned criterion dated 11.12.2013.

ii) The Scheme of regularization framed by the Government of India itself provided that “*if any land is earmarked for public utility that land will be acquired and alternative plot would be allotted to every person whose*



property is so acquired". However, NDMC on its own have inserted a caveat that alternative land can only be allotted if the land is available in that vicinity. Further, the said Scheme contemplated alternative plots for "affected" plot holders and the same is much wider term than the term "owner".

iii) In the year 2006-07, a public notice was issued by the Competent Authority, stating that payment of conversion charges shall be made to the local authority before 30th June of every year, otherwise, a penalty will be imposed and NDMC will compound it on payment of interest of 8% on the charges due for the delayed period. Thus, in case of non-payment of conversion charges, NDMC can only impose penalty and the said non-payment has no relation with the ownership of the petitioners herein.

iv) On 01.10.2012, NDMC filed an affidavit in W.P.(C) 1852/2010, setting out the eligibility criteria for allotment of alternative land to the persons affected by the acquisition. The said affidavit stated about the payment of conversion charges as precondition for rehabilitation but there was no cut-off date mentioned for paying the same. Further, NDMC had stated before the learned Division Bench of this Court that no other condition apart from the conditions set out on the said affidavit shall be imposed for allotment of alternative plots. Moreover, the cut-off date of 10.04.2012 is arbitrary as the order dated 10.04.2012 itself was published thereafter and thus, there was no level of playing field for all the affected persons.



v) In terms of order dated 03.10.2012 in W.P.(C) 1852/2010, NDMC had publicized a draft criterion dated 10.10.2012. However, the same also does not provide for any cut-off date for payment of conversion charges.

27. Refuting the submissions made on behalf of the petitioners, learned Counsel for the respondent/ NDMC submitted as follows:

i) Petitioner's properties is situated on Punjabi Basti Road, which was declared as commercial street. Therefore, the premises situated therein could be used for commercial purposes subject to payment of conversion charges. However, the petitioners were running their respective shops without getting their premises converted for the purposes of use as commercial premises.

ii) Petitioners herein are the ones who have either not paid the conversion charges or have paid the conversion charges belatedly *i.e.* after the cut-off date, for the purpose of obtaining the benefit of rehabilitation scheme.

iii) In the draft criterion dated 10.10.2012 and in the final criterion dated 11.12.2013, it was stated that since the rehabilitation land is limited, only few persons can be accommodated. Thus, only owners who had paid the conversion charges upto 10.04.2012 had been considered for allotment at alternative site.

iv) When the petitioners themselves have not followed the law, they cannot expect any benefit that is to be extended as per the eligibility criteria, over and above the compensation to be paid for acquisition, since they are being paid compensation for acquisition.



v) Non-payment of conversion charges cannot be compounded in the petitioner's case as they never initially got their premises converted for commercial use.

F. Petition filed by persons, who failed to submit requisite documents by cut-off date i.e. 11.05.2012-W.P.(C) 320/2016

28. The present petition under Articles 226 of the Constitution of India, 1950 seeks the following prayers:-

“(a) issue an appropriate writ, order or direction thereby directing the Respondent No.2 to allot an alternative plot in lieu of the demolition of the shop of the petitioner i.e. Shop bearing plot No.46, Shop No.3, Punjabi Basti, Sultanpuri Road, Nangloi, Delhi- 110041 as per the orders dated 03.10.2012 of the Hon'ble High Court of Delhi already passed in .W.P.(C)No. 1852/2010 in the matter of Mukund Lai & Ors. Vs. Union of India & Ors. thereby including the name of the petitioner in the eligible candidates/ applicants.

b) Pass such other and further order as this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the present case and in the interest of justice in favour of the Petitioner.

Prayed accordingly”

29. Learned counsel for the petitioner, in addition to the submission made on behalf of the petitioners before, submitted that:

i) No compensation have been granted to the petitioner herein till date, even though his shop was demolished by the NDMC for construction of the subject ROB/ RUB.

ii) Petitioner herein had applied for rehabilitation on 11.05.2012 with the following list of documents *i.e.* complete chain of ownership, copy of



electricity bills, conversion charge receipt, registration/ trade license of shop alongwith all requisite documents.

iii) It came to the knowledge of the petitioner herein that his aforesaid application was not considered on the ground that the documents are not containing conversion charges receipt, though the petitioner had already filed the same along-with requisite documents.

30. Refuting the submissions made on behalf of the petitioner, learned Counsel for NDMC submitted that:

i) The petitioner has failed to provide the requisite documents by the cut-off date *i.e.* 11.05.2012 as stipulated by the learned Division Bench of this Court in W.P.(C) 1852/2010.

ii) As per the criterion finalized by the NDMC, only owners who had paid the conversion charges and running their shops after payment of conversion charges had been considered for rehabilitation subject to fulfillment of other conditions. The petitioner herein by way of the present petition is raising contention that the his name should also be included in the list of persons eligible dated 26.02.2012 for rehabilitation. However, the petitioner is not entitled for any rehabilitation as he does not fulfill the eligibility criterion.

iii) The petitioner had applied on 11.05.2012 for allotment of alternative plot to him. However, the petitioner did not submit the complete chain of ownership, he only submitted GPA in his favour from one Shri Kashmiri Lal Jain executed in the year 1998. Besides that, no receipt for conversion charges



was ever submitted by the petitioner. Instead, cash order for Rs. 1250/- dated 27.03.2008 in favour of MCD, Commissioner was found in the documents submitted by the petitioner. However, the petitioner has now attached receipt for conversion charges as Annexure F in the present petition. Be that as it may, the petitioner did not submit complete chain of ownership to the NDMC.

iv) NDMC had already submitted before the learned Division Bench that only such applications will be considered which were submitted upto the last cut-off date *i.e.* 11.05.2012 in terms of order dated 10.04.2012. It is further stipulated in the final criteria dated 11.12.2013 that only owners who have paid conversion charges and parking charges in respect of their acquired property would be considered subject to fulfillment of other conditions.

v) NDMC has not found the petitioner's documents as regards his ownership to be complete and proper. Further, the dispute raised by the petitioner herein is in the nature of disputed questions of facts and this Court can not decide as to whether the petitioner is the actual owner of the shop in question and whether the documents submitted by the petitioner are proper documents establishing his ownership.

G. Petitions filed by persons, challenging decision of NDMC holding them not entitled for rehabilitation-W.P.(C) 11905/2016 & W.P.(C) 3644/2023

W.P.(C) 11905/2016

31. The present petition under Articles 226 of the Constitution of India, 1950 seeks the following prayers:-



- “A. An appropriate writ, order or direction quashing the order/ communication dated 03.10.2016 insofar as petitioner is concerned wherein he has been held not entitled for rehabilitation, as contrary to criteria laid down by respondents itself;
- B. Writ, order or direction directing the respondents to restore the allotment of alternative shop of the same size as stated in communication dated 14.08.2015 and as per the criteria Communicated vide letter dated 06.05.2015;
- C. Pass an order allowing the costs of the present writ petition in favour of the Petitioner and against the Respondents;
- D. Pass such order or further orders that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

32. Learned counsel for the petitioner in support of the present petition made the following submissions:

i) Mr. Raman Singh S/o Mr. Sonath through contemporaneous documents dated 04.02.1991 sold to Mr. Banarsi Dass *i.e.* father of the petitioner herein, the property bearing no. 13A, ad-measuring 175 sq yards, Khasra no. 32/9/2, Punjabi Basti, Nangloi. Subsequently, through contemporaneous documents dated 05.04.1994 Mr. Banarsi Dass sold to the petitioner herein plot no. 13A, admeasuring 75.77 sq yards and 25.50 sq yards on back side of Khasra no. 32/9/2, Punjabi Basti, out of total of 175 sq yards. Thereafter, the petitioner through contemporaneous documents dated 08.07.1999 in favour of Mrs. Pushpa *i.e.* wife of the petitioner herein, sold only basement of plot no. 13A, Punjabi Basti, Nangloi. Thus, wife of the petitioner became the absolute owner of only the basement of plot No. 13A, Punjabi Basti, Nangloi.

ii) The petitioner has been running the business of textile under the name of “Garg Textile” and has been depositing conversion charges/ property tax with the concerned authorities with respect to the ground floor of plot no. 13A separately and Mrs. Pushpa *i.e.* the wife of petitioner, has been running the



business of garments under the name of “Amit Handloom” and she has also been depositing conversion charges/ property tax with the concerned authorities with respect to the basement of plot no. 13A separately.

iii) The Association showed to the petitioner herein letter dated 14.08.2015, showcasing size of shops allotted to each of the eligible persons and raised demands on the basis of the size of the shop allotted to him. Accordingly, the petitioner deposited a sum of Rs. 2.5 Lakhs with the Association.

iv) Subsequently, some of the eligible persons made representations to the NDMC that they have been wrongly allotted smaller size of shops and correct categorization need to be made, but it went in vain. Therefore, aggrieved persons including the wife of petitioner approached this Court *vide* W.P.(C) 4877/2016. Whereby, this Court *vide* order dated 12.08.2016 directed the NDMC to treat the said writ petition as representation *qua* the petitioners therein and reply to the same. This Court further directed NDMC to conduct a survey *qua* the affected area as well. In compliance to the same, NDMC conducted a survey on 03.09.2016 and passed the impugned order herein dated 03.10.2016. *Vide* the said impugned order, while dealing with the case of the petitioner’s wife (one of the petitioner in W.P.(C) 4877/2016) without there being any direction with respect to any other eligible person, NDMC *suo moto* dealt with the case of the petitioner herein and held that the petitioner herein is not eligible for rehabilitation, since, he executed GPA dated 08.07.1999 with respect to whole of the property in favour of his wife. It is completely wrong to suggest that the said GPA was executed with respect to



whole of the property or it resulted into depriving the petitioner herein of ownership status with respect of ground floor of the subject property.

v) The petitioner and his wife are owners of ground floor and basement of the subject premises respectively. Thus, as per clause 4 of the final criterion dated 11.12.2013, which states that one owner would be entitled to one shop irrespective of their holding, both the petitioner and his wife are clearly entitled to two different shops. There is no law that prohibits transfer of part of a property to some other person. Further, since NDMC have been accepting conversion charges separately from the petitioner and his wife, they are now *estopped* from taking a plea of artificial division.

vi) The Executive Engineer by way of the impugned order herein, has acted as a 'quasi judicial' authority, in absence of any such power to review/recall the earlier notified list and remove the name of petitioner from serial no. 41. Further, the Executive Engineer does not have any power to alter the decision of the Committee constituted by NDMC, which held petitioner to be eligible for rehabilitation *vide* letter dated 26.02.2014.

vii) NDMC neither served any notice to the petitioner herein nor gave any opportunity of hearing to the him to plead his entitlement before passing of the impugned order herein. Therefore, the aforesaid act of NDMC is arbitrary, illegal and liable to be set aside.

33. Refuting the submissions made on behalf of the petitioner herein, learned counsel for the NDMC, made the following submissions:



i) Names of both the petitioner and his wife had been initially included in the list of eligible persons dated 26.02.2014. However, pursuant to the directions of this Court *vide* order dated 12.08.2016, when survey was conducted on 03.09.2016, an error that the petitioner was not eligible for rehabilitation in terms of clause 4 of the final criterion dated 11.12.2013 was detected and the said error was rectified by issuing the impugned letter herein dated 03.10.2016.

ii) During the survey of 03.09.2016, area of Mrs. Pushpa was found to be 40.33 sq. mt. as against 11.70 sq mt. found during the survey in October, 2014. It was also found that there was an artificial division of the subject property, the petitioner had executed GPA dated 08.07.1999 in favour of his wife with respect to whole of the subject property. Therefore, it was imperative upon the NDMC to rectify their mistake and hold the petitioner ineligible for rehabilitation.

iii) The fact that whole of the subject property was transferred was suppressed by the petitioner earlier. It was only when this Court directed NDMC to look into the cases of the petitioners in W.P.(C) 4877/2016, it transpired that basement as well as ground floor was owned by one, Mrs. Pushpa *i.e.* wife of the petitioner herein.

iv) Petitioner's averment that no opportunity of hearing was granted before holding him ineligible is totally baseless. The name of the petitioner was included in the list of eligible persons as an honest mistake because of the petitioner's misrepresentation by filling self attested copy of agreement to sell



dated 05.04.1994 and also, there was no occasion for giving opportunity of hearing to the petitioner. Even otherwise, final criterion is very categorical in its terms and conditions and the same has been followed by the NDMC strictly.

v) Clause 2 of the final criterion has also not been fulfilled in the present case. Documents filed by the petitioner shows that conversion charges were paid by the petitioner in one go from 2007-08 to 2011-12 and by his wife for the year 2012-13, on 08.05.2012. Thus, it transpires that even his wife is not entitled for rehabilitation since the conversion charges had been paid by the the petitioner and his wife after the cut-off date *i.e.* 10.04.2012. Therefore, wife of the petitioner has also been wrongly included in the list of eligible persons.

W.P.(C) 3644/2023

34. The present petition under Articles 226 of the Constitution of India, 1950 seeks the following prayers:-

“a) Writ in the nature of certiorari quashing the notification, numbered EE(PR)III/RZ//2013-14/405, dated 11/12/2013 (Annexure P-1). enunciating final criterion for drawing the list of eligibility for rehabilitation of individuals affected by construction of ROB/RUB at Sultanpuri near Nangloi, and all the consequential proceedings arising thereto for being violative of Article 14 and Article 21 of the Constitution of India, 1950;

b) Writ in the nature of certiorari quashing the List of eligible persons, numbered EE(PR)III/RZ//2013-14/541, dated 26/02/2014 (Annexure P - 2) issued by the Respondent No. 1;

c) Writ, order and direction in the nature of mandamus to adequately compensate/rehabilitate the Petitioner by publishing a new rehabilitation scheme for individuals affected by construction of ROB/RUB at Sultanpuri near Nangloi;



d) Pass any other order as this Hon'ble Court may deem fit and appropriate in the facts of this case.”

35. Learned counsel for the petitioner in support of the present petition made the following submissions:

i) The impugned notification dated 11.12.2013 is illegal as the same has been passed without replying to the substantive objections dated 18.10.2012 raised by the petitioner herein to the draft notification dated 10.10.2012. NDMC before publishing the said impugned notification, was under an obligation to provide an opportunity of hearing to the petitioner herein with respect to his objections and thereafter, decide upon the said objections.

ii) No reasonable justification has been given for laying down a criteria that only one person from each plot would be eligible, when the plot size and the holding of each owner within the same plot is not uniform.

iii) Arbitrariness in NDMC's action is evident from the fact that in the impugned list dated 26.02.2014, wherein name of the petitioner is not included, four persons from plot no. D - 1 have been mentioned, which is contrary to the impugned notification dated 11.12.2013 itself. Therefore, it is evident that NDMC have got the impugned notification and impugned list prepared at behest of certain members of the Association.

ANALYSIS AND FINDINGS



36. Before this Court proceeds further, impugned eligibility criteria dated 11.12.2013, pursuant to which the impugned list of eligible persons dated 26.02.2014 have been announced, needs to be examined.

37. In the respondent's/ NDMC's counter affidavit dated 23.02.2015 in W.P.(C) 3152/2014, following averment has been made:

“22. That the Final Criterion as laid by the Municipal Corporation is in consonance with the Relocation and Rehabilitation Policy of the Government of NCT of Delhi. The said policy of the Delhi Government regarding Relocation and Rehabilitation of persons whose land is acquired for public purpose is annexed hereto as **Annexure R-9.**”

38. The aforementioned Relocation and Rehabilitation Policy of Government of National Capital Territory of Delhi (hereinafter referred to as “**Rehabilitation Policy**”) is reproduced as under:

**“GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI LAND AND BUILDING DEPARTMENT B-BLOCK
VIKAS BHAWAN, NEW DELHI-110002.**

No.F.31(DMRC)/08/Alt./L&B/II/7174-7202 Dated: 25.07.2012

**RELOCATION AND REHABILITATION POLICY FOR
OWNERS OF URBAN PROPERTIES WHOSE LAND IS
ACQUIRED FOR PUBLIC PURPOSE (OTHER THAN MRTS)
W.E.F. SEPTEMBER 19, 2011.**

Applicability of the Policy

- (i) (a) The guidelines on regulation and rehabilitation policy for project affected persons (PAP) will be uniformly applicable to all urban areas.
- (b) The rehabilitation policy will also apply to pucca residential units only located on private land in authorized regularized colonies.



Eligibility Criteria

- (ii) (a) Those whose shops/residences or workshops/industrial units are affected in a manner that the said premises can not be utilized as a shop/residence, workshop/industrial unit on acquisition of this property shall be eligible for relocation and rehabilitation under the scheme. In case of premises where less than 50 percent has been acquired and the recorded owner can continue to reside/work from there, would not be eligible for rehabilitation under the scheme.
- (b) In case of shops the recorded owner will be eligible.
- (c) In case of residential units, the rehabilitation will cover only owner's residing in the premises. Tenants would not be eligible under the scheme.

(iii) To verify the claims of the project affected persons for suitable rehabilitation and relocation, a committee shall be constituted under the chairmanship of the Deputy Commissioner concerned and consisting of the following members:

- (a) ADM/LAC concerned.
- (b) Representative(s) of land requisitioning department.
- (c) Representative(s) of local body concerned.
- (d) Representative(s) of DDA

The committee shall recommend the cases of eligible PAP in cases for residential plots and shops directly to DDA and in case of allotment of industrial units to the Department of Industries, Government of NCT of Delhi, and DSIIDC.

- (iv) (a) For allotment of alternative residential units, the following norms, in respect of size, shall be adopted by DDA.

For residential plot of size less than 100 sq. mtrs.	A flat in LIG category
For residential plot of size above 100 sq. mtrs. Up to 300 Sq. Mt.	A flat of MIG category
For residential plot of size 300 Sq. mtrs and above.	A flat of HIG category

The location of Rehabilitation flats (L.I.G/M.I.G) should, as far as possible, be closer to the acquired land.



- (b) In respect of allotment of industrial plots the norms as approved in the industrial relocation scheme shall be followed. Those who have already availed the benefits under the Industrial Relocation Scheme would not be covered. Further, the cut off dates as prescribed under the Supreme Court orders on Industrial Relocation shall apply.
- (c) The size of shops may be decided by the allotting agency subject to availability of the shops.
- (v) The allotment of land or built up houses or shops or industrial units shall be done on pre-determined rates.
- (vi) Wherever the land is available in the nearby vicinity, the project affected shopkeepers may form an association and the land may be allotted on 99 years lease to the association for constructing shops for its members only.
- (vii) As the end-use of land will be commercial, the prevalent market rate for the commercial use will be charged as notified by the Government of India, Ministry of Urban Development and Poverty Alleviation (Lands Division) from time to time.
- (viii) In addition, ground rent will be levied as per government policy.
- (ix) The payment for land and ground rent will be made to the local body owning the land and, in case, there is more than one local body/agency owning the land, the same will be shared proportionately on the basis of their ownership of the land.
- (x) The shops will be constructed by the association according to the sanctioned Building Plans by MCD/DDA, as the case may be.
- (xi) The allotment of constructed shops will be made by the committee (proposed in paragraph (iii) above) on the pattern of the Lease Deed of DDA by draw of lots to be held in the presence of office bearers of the association.
- (xii) As far as possible, the allotment of alternative space for shops shall be pro-rata according to the floor area of the land



acquired/given up by the shop keepers for development projects of government in urban areas.

(xiii) Any area made available in excess of the area acquired, shall revert to the land owning agency for the purpose of allotment to other PAP as deemed fit.

(xiv) The Requisitioning Agencies will make a provision in its commercial complexes, if any, for allotment of built up space to PAP on priority. This allotment will be at a cost determined by the Requisitioning Agencies on their terms and conditions.

(xv) For any government project requiring involuntary resettlement, resettlement planning shall be an integral part of project design, to be dealt with from the earliest stages of the project cycle.

(xvi) The affected people shall be identified and recommended by the project executing authority, i.e., land requisition agency before submitting the proposal for notification under section 4 of the Land Acquisition Act in consultation with the concerned Land Acquisition Collector.

(xvii) A cut off date shall be set preferably at the project preparation stage so as to prevent the subsequent influx of encroachment or others who wish to take advantage of the scheme.

(xviii) Further, the full resettlement costs shall be included in the presentation of the project costs and benefits. This shall include the cost of compensation, projected enhanced compensation, relocation and rehabilitation etc.

This policy has been made effective from September 19, 2011 vide Government of India order No. O-16021/3/2010-DDVA (909), Govt. of India, Ministry of Urban Development (Delhi Division) dated September 22, 2011.

(Vijay Dev)
Pr. Secretary (L&B)”

(emphasis supplied)



39. Although, in petitioners' rejoinder in W.P.(C) 3152/2014, the petitioners have denied applicability of the Rehabilitation Policy on the issue pending adjudication in the present petitions. But this Court is of considered opinion that the impugned eligibility criteria needs to be examined in terms of the said policy.

40. The impugned eligibility criteria dated 11.12.2013 is reproduced below:

“ NORTH DELHI MUNICIPAL CORPORATION
Office of the Executive Engineer (Project) III/R7
3rd Floor, Sub Zonal Office Building
Sector 17, Rohini Delhi-110085

No. EE (Pr) III/RZ//2013-14/405

Dated 11-12-13

Subject: Final criterion for drawing the list of eligibility for rehabilitation of applicants affected by construction of ROB/RUB at Sultanpuri near Nangloi

Pursuant to the orders of the Hon'ble High Court of Delhi dated: 3.10.12 the matter of "Mukund Lal & Others Vs UOI & Others" {W.P.(C) No. 1852/2010} application received from candidates aggrieved by the terms and conditions of the draft criterion have been scrutinized by the committee constituted for this purpose of the final criterion for drawing the list of eligibility for rehabilitation of applicants affected by construction of ROB/RUB at Sultanpuri near Nangloi has been concluded by the said committee as under:

1. Only such applications will be considered which were submitted upto last/cut of date i.e. 11/5/12 in terms of order dated: 10/4/12 of the Hon'ble Court.
2. Since the land for rehabilitation is limited i.e. land measuring 1162.295 sqm. purchased from the DUSIB, and only few persons can be accommodated, thus only owners who have paid conversion charges/parking charges upto cut of date i.e. 10.4.2012 in respect of



their acquired property would be considered subject of fulfillment of other conditions. Only such owners will be eligible for consideration who are left with no other space in the same locality.

3. There are 17 nos. of thada occupants. The thadas were allotted by S&JJ Department on license basis (in violation of their terms of license, the original licensee have sold the thadas to the present occupants). Such persons can not claim an independent right of occupation as license was nontransferable. Only original licensee of the thada will be eligible for allotment.

4. The owners of the property have transferred the built up structure by sub- division to the various persons and in some cases one owner is occupying many built up properties. Only one flat will be given to one single owner irrespective of their holding.

5. The persons who are squatting on public land will not be considered for allotment of alternative site.

6. It has been found that in order to obtain alternative site, artificial sub-divisions have been created. Thus, in order to verify the position with respect to ownership, complete chain of ownership is to be examined with co-related supporting documents i.e. electricity bills water bills, MTNL land line bills, house tax mutation, property tax receipts govt. license, if any.

7. Since the colony in question is an unauthorized /regularized colony, original revenue record relating to agricultural land cannot be the sole criteria for ascertaining the eligible persons. The same is to be required to be considered from the chain of the ownership.

8. The eligible applicants will be required to form a Cooperative Group Housing Society (CGHS) registered with the Registrar of Societies and authorized representatives of the society shall deposit the cost of entire land measuring 1162.295 sqm. paid by the erstwhile MCD to the erstwhile Slum & JJ Department (now DUSIB) within 45 days of issue of eligible list of applicants and cost of construction will be borne by the CGHS.

Sd/-
Ex. Engineer (Pr.)-III/1”

41. It has been noted hereinbefore that the impugned eligibility criteria dated 11.12.2013 was framed in pursuance of various orders passed by learned Division Bench of this Court in W.P.(C) 1852/2010. It is also pertinent to note that in MCD’s short affidavit dated 05.01.2012 in W.P.(C)



1852/2010, it has been stated that out of 1700 sq. meters of land put at the disposal of the MCD by DUSIB, approximately, 500 sq. meters of the same would be required by the MCD for the purpose of its present project and balance land of approximately 1200 sq. meters would be made available to the eligible petitioners as well as other “affected persons”. Thus, the land for the purpose of rehabilitation was limited and the same was in everyone’s knowledge. Therefore, the respondent/NDMC had to frame a criterion to determine the eligibility for rehabilitation of the applicants affected by construction of ROB/RUB at Sultanpuri Railway Crossing keeping the same into consideration.

A. Petition filed by eligible persons, challenging eligibility of other persons and claiming larger area for rehabilitation for themselves- W.P.(C) 3152/2014

42. Learned counsel for the petitioners had strenuously argued that the perusal of the order/ judgment dated 23.08.2011 passed by the learned Division Bench in W.P.(C) 1852/2010, would show that the land acquisition proceedings were not upheld but compromised between the parties. It was further submitted that in terms of the compromise, NDMC had agreed to give plot, however, under the impugned eligibility criteria dated 11.12.2013, the same was replaced with a shopping complex. Attention of this Court was drawn to various affidavits filed on behalf of the NDMC to demonstrate that from the very beginning allotment of plots to the eligible applicants was being considered. Thus, it is the contention of the learned counsel for the petitioner, plots were to be allotted upon which the eligible persons were to make their own construction. Similarly, it was contended that forming of the registered



association was limited to collection of cost and not for investing development rights. Attention of this Court was drawn to an order dated 10.04.2012 passed by the learned Division Bench in W.P.(C) 1852/2010, wherein, on the suggestion made by the NDMC that an association of affected persons be formed, an objection raised on behalf of the learned counsel for the petitioners therein was recorded that the same may not be possible as there are various groups and individual cases that will have to be verified. Further, it was vehemently argued that the Association so formed was not the understanding between the parties. In addition to the above, learned counsel for the petitioners had placed on record various discrepancies in the process of allotment and disputing the eligibility of other persons and further, claimed more area for their rehabilitation.

43. In the counter affidavit of the NDMC, the aforesaid contentions have been denied and proposed allotment on the basis of the impugned eligibility criteria has been defended.

44. So far as the contention of learned counsel for the petitioners with respect to allotment of plots and not shops are concerned, it is relevant to note that in the MCD's affidavit dated 01.10.2012 in W.P.(C) 1852/2010, it was recorded as under:

“That the final layout plan would be prepared for further action to accommodate such eligible persons. It is also submitted that approval and finalization of the layout plan is a time consuming process. Once the process in this regard is initiated, it will not be possible to alter the same to accommodate any more applicants.”



45. Subsequently, it has come on record that in a meeting held on 04.02.2015, the layout plan for the plot meant for rehabilitation of the petitioners and other eligible persons for the purpose of local shopping centre had been cleared by the Layout Scrutiny Committee (LOSC). It is already noted hereinbefore that the land which is approximately 1700 sq. meters was limited for purposes of rehabilitation of all the persons, who have been affected by the acquisition and therefore, the concerned authorities have come out with layout plan for a shopping complex to accommodate all eligible persons. It is further noted that one unit is being offered to each eligible person. So far as the contention with regard to being entitled to larger plots is concerned, this Court is of the considered opinion that since the land is limited, the concerned authorities have come out with a criteria to ensure fair distribution of available means amongst the eligible applicants. As already noted hereinbefore, alternate units allotted to each eligible applicant is in proportion to the size held by respective eligible applicant at present. It is further observed that the Rehabilitation Policy was evolved during the course of the proceedings in W.P.(C) 1852/2010 and therefore in the peculiar facts and circumstances of the case, the petitioners cannot claim the rehabilitation as their inherent right. Thus, the decision for constructing a local shopping centre has been taken by examining the land available and the number of eligible persons. The respondent cannot be directed to allot plots to the petitioners, if the same is not practical/ feasible. Thus, there is no merit in the contention that only plots should be allotted to the petitioners. Similarly, various objections taken by the petitioner with respect to allotment of other illegible persons have been adequately responded to by the respondent in their counter affidavit. This Court cannot examine disputed questions of fact in the



present jurisdiction. This Court is satisfied that the process adopted by the respondent was fair and equitable.

46. So far as the objection with respect to building of the shopping complex by the Association is concerned, it is the stand of the respondent that they cannot construct the said complex and it has to be done by the allottees. The allottees themselves cannot individually construct the shopping complex and therefore, association is the right way to go about. Appropriate directions can be given to the said association to complete this project which can be supervised by the NDMC.

B. Petitions filed by tenants-W.P. (C) 2160/2014 & W.P.(C) 1179/2017

47. Learned Senior counsel appearing on behalf of the tenants/ petitioners in W.P.(C) 2160/2014 had contended that rehabilitation would entail “restore to rights, privilege or formal ability”. It was submitted that the tenants would be entitled to be rehabilitated, *i.e.*, restored to right usage for the purpose of the livelihood, in addition to his proportionate share of compensation (pertaining to possessory rights). Attention of this Court was drawn to various provision of LA Act and in particular to Section 3(b) of the said Act to contend that the tenants would come within the meaning of “person interested”. Attention of this Court was also drawn to the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “**RFCTLARR**”) and in particular to its Section 3(c) and 3(x) again to contend that tenants would be included in “affected family” and “person interested”. It was further argued



that displacements of tenants is in violation of the provisions of DRC Act and thus, in the present case, since the tenants in possession are protected under the said provisions and grant of alternate properties to landlords/owner without restoration of the tenant in the same would tantamount to doing indirectly what is prohibited directly. Reliance for the same was placed on UOI v. Krishan Lal Arneja (*Supra*) and NSX Firms Pvt Ltd. v. UOI and Anr.⁷.

48. Learned Senior Counsel drew the attention of this Court to an order dated 06.07.2011 passed in W.P.(C) 1852/2010 to submit that the Rehabilitation Policy was with respect to ‘displaced persons’. It was submitted that the petitioner in the aforesaid writ petition was both an owner as well as a occupier and only such owners were to be eligible, who were also in possession of the land. Thus, it was submitted that irrespective of ownership, occupants were to be considered in the said Policy, which was not done, therefore, it was argued that a person, who is not in possession cannot be a ‘displaced person’ and therefore owner, who is not in possession cannot be rehabilitated.

49. The present Rehabilitation Policy was not initiated at the instance of the respondent for the purpose of acquisition, however, the same was evolved during the course of hearing in W.P.(C) 1852/2010 and the impugned eligibility criteria was formulated thereafter. As per the case of NDMC, impugned eligibility criteria is in consonance to their Rehabilitation Policy.

⁷ 2008 1AD (Delhi) 613



Admittedly, the said policy was only for the recorded owners and tenants are not eligible under the said Policy.

50. In counter-affidavit in W.P.(C) 2160/2014, NDMC has further stated that full amount of the compensation for acquisition has already been deposited with the LAC and the said compensation is payable to the “affected persons” and therefore the same will be determined in accordance with the existing policies. It is further stated that if the petitioners are found eligible, then the compensation would be given by the LAC. Thus, the Rehabilitation Policy in the present case was formulated in addition to the compensation payable in terms of the acquisition.

51. At this stage, it will be apposite to refer to the judgment of Hon’ble Supreme Court in Estate Officer, Haryana Urban Development Authority and Ors. v. Nirmala Devi⁸, wherein while dealing with the issue of rehabilitation, it was observed and held as under:

“78. Before we talk about the legal rights of the oustees and the legal obligations on the part of the authorities, so far as the enforcement of the scheme for allotment of plots is concerned, we must look into some law on this subject:

i. The question of allotment of the plots to the oustees, came up for consideration before this Court in State of U.P. v. Smt. Pista Devi, (1986) 4 SCC 251 : AIR 1986 SC 2025, wherein the Court was called upon to consider the acquisition of land by Meerut Development Authority. The Court directed that where large tracts of land for the purposes of land development in urban areas is acquired, the developing authority should provide a house or shop site of reasonable size on reasonable terms to each of the expropriated persons, who have no houses or shops/buildings in the

⁸ 2025 SCC OnLine SC 1409



urban area in question. The said direction was issued in view of the provisions of Section 21(2) of the Delhi Development Act, 1957, which contemplates settlement of those land-owners, whose land has been acquired.

ii. In *State of Madhya Pradesh v. Narmada Bachao Andolan*, (2011) 7 SCC 639, this Court negated the argument that in case of land acquisition, the plea of deprivation of right to livelihood under Article 21 is sustainable. It was held to the following effect:

“26. It is desirable for the authority concerned to ensure that as far as practicable persons who had been living and carrying on business or other activity on the land acquired, if they so desire, and are willing to purchase and comply with any requirement of the authority or the local body, be given a piece of land on the terms settled with due regard to the price at which the land has been acquired from them. However, the State Government cannot be compelled to provide alternate accommodation to the oustees and it is for the authority concerned to consider the desirability and feasibility of providing alternative land considering the facts and circumstances of each case.

27. In certain cases, the oustees are entitled to rehabilitation. Rehabilitation is meant only for those persons who have been rendered destitute because of a loss of residence or livelihood as a consequence of land acquisition. The authorities must explore the avenues of rehabilitation by way of employment, housing, investment opportunities, and identification of alternative lands. “10.... A blinkered Vision of development, complete apathy towards those who are highly adversely affected by the development process and a cynical unconcern for the enforcement of the laws. lead to a situation where the rights and benefits promised and guaranteed under the Constitution hardly ever reach the most marginalised citizens.” (*Mahanadi Coalfields Ltd. v. Mathias Oram*, (2010) 11 SCC 269)

For people whose lives and livelihoods are intrinsically connected to the land, the economic and cultural shift to a market economy can be traumatic. (Vide *State. of UP. v. Pista Devi*, (1986) 4 SCC 251 : AIR 1986 SC 2025, *Narpat Singh v. Jaipur Development Authority*, (2002) 4 SCC 666 : AIR 2002 SC 2036, *Land Acquisition Officer v. Mahaboob*, (2009) 14 SCC 54, *Mahanadi Coalfields Ltd. v. Mathias Dram*, (2010) 11 SCC 269 and. *Brij Mohan v. HUDA*, (2011) 2 SCC 29.) The fundamental right of the



farmer to cultivation is a part of right to livelihood. “Agricultural land is the foundation for a sense of security and freedom from fear. Assured possession is a lasting source for peace and prosperity.” India being a predominantly agricultural society, there is a “strong linkage between the land and the person's status in [the] social system”.

28. However, in case of land acquisition, “the plea of deprivation of right to livelihood under Article 21 is unsustainable”. (Vide *Chameli Singh v. State of U.P.*, (1996) 2 SCC 549 and *Samatha v. State of A.P.*, (1997) 8 SCC 191). This Court has consistently held that Article 300-A is not only a constitutional right but also a human right. (Vide *Lachhman Dassv, Jagat Ram*, (2007) 10 SCC 448 and *Amarjit Singh v. State of Punjab*, (2010) 10 SCC 43). However, in *Jilubhai Nanbhai Khachar v. State of Gujarat*, 1995 Supp (1) SCC 596, this Court held : (SCC pp. 620 & 632, paras 30 & 58)

“30. Thus it is clear that right to property under Article 300-A is not a basic feature or structure of the Constitution. It is only a constitutional right.

58. ...The principle of unfairness of the procedure attracting Article 21 does not apply to the acquisition or deprivation of property under Article 300-A giving effect to the directive principles.” (Emphasis supplied)

iii. This Court in *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664 held as under : (SCC pp. 702-03, para 62)

“62. The displacement of the tribals and other persons would not per se result in the violation of their fundamental or other rights. The effect is to see that on their rehabilitation at new locations they are better off than what they were. At the rehabilitation sites they will have more and better amenities than those they enjoyed in their tribal hamlets. The gradual assimilation in the mainstream of the society will lead to betterment and progress.” (Emphasis supplied)

iv. In *State of Kerala v. Peoples Union for Civil Liberties*, (2009) 8 SCC 46, this Court held as under : (SCC p. 95, paras 102-03)

“102. Article 21 deals with right to life and liberty. Would it bring within its umbrage a right of tribals to be rehabilitated in their own habitat is the question?

103. If the answer is to be rendered in the affirmative, then, for no reason whatsoever even an inch of land belonging to a member of



Scheduled Tribe can ever be acquired. Furthermore, a distinction must be borne between a right of rehabilitation, required to be provided when the land of the members of the Scheduled Tribes are acquired vis-a-vis a prohibition imposed upon the State from doing so at all.” (emphasis supplied)

79. In the Narmada Bachao Andolan (supra), under the head ‘land for land’, this Court observed that Constitution requires removal of economic inequalities and provides for provision of facilities and opportunities for a decent standard of living and protection of economic interests of the weaker segments of the society. Every human has a right to improve his standard of living. The Court concluded that allotment of land in lieu of land acquired in view of the Rehabilitation & Resettlement Policy (for short ‘R&R Policy’), the State Authorities are under obligation to allot land to the allottees as far as possible. The expression ‘as far as possible’ has been explained in para 38, which reads as under:

“38. The aforesaid phrase provides for flexibility, clothing the authority concerned with powers to meet special situations where the normal process of resolution cannot flow smoothly. The aforesaid phrase can be interpreted as not being prohibitory in nature. The said words rather connote a discretion vested in the prescribed authority. It is thus discretion and not compulsion. There is no hard-and-fast rule in this regard as these words give a discretion to the authority concerned. Once the authority exercises its discretion, the court should not interfere with the said discretiori/decision unless it is found to be palpably arbitrary. (Vide Iridium India Telecom Ltd. v. Motorola Inc., (2005) 2 SCC 145 and High Court of Judicature for Rajasthan v. Veena Verma, (2009) 14 SCC 734). Thus, it is evident that this phrase simply means that the principles are to be observed unless it is not possible to follow the same in the particular circumstances of a case.”

80. The Court further held that the Government has the power and competence to change the policy on the basis of ground realities and that State Government is competent to frame policy and a public policy can be challenged, where it offends some constitutional or statutory provisions. It observed as under:

“35. In State of Punjab v. Ram Lubhaya Bagga, (1998) 4 SCC 117, this Court while examining the State policy fixing the rates for reimbursement of medical expenses to government servants held : (SCC pp. 129-30, paras 25-26 & 29)



“25. ...When Government forms its policy, it is based on a number of circumstances on facts, law including constraints based on its resources. It is also based on expert opinion. It would be dangerous if court is asked to test the utility, beneficial effect of the policy or its appraisal based on facts set out on affidavits. The court “would dissuade itself from entering into this realm which belongs to the executive. It is within this matrix that it is to be seen whether the new policy violates Article 21 when it restricts reimbursement on account of its financial constraints.

26.... For every return there has to be investment. Investment needs resources and finances. So even to protect this sacrosanct right, finances are an inherent requirement. Harnessing such resources needs top priority.

29. No State of any country can have unlimited resources to spend on any of its projects. That is why it only approves its projects to the extent it is feasible.”

36. The Court cannot strike down a policy decision taken by the Government merely because it feels that another decision would have been fairer or more scientific or logical or wiser. The wisdom and advisability of the policies are ordinarily not amenable to judicial review unless the policies are contrary to statutory or constitutional provisions or arbitrary or irrational or an abuse of power. (See Ram Singh Vijay Pal Singh v. State of U.P., (2007) 6 SCC 44, Villianur 1 yarkkai Padukappu Maiyam v. Union of India, (2009) 7 SCC 561 and State of Kerala v. Peoples Union for Civil Liberties, (2009) 8 SCC 46.)

37. Thus, it emerges to be a settled legal proposition that the Government has the power and competence to change the policy on the basis of ground realities. A public policy cannot be challenged through PIL where the State Government is competent to frame the policy and there is no need for anyone to raise any grievance even if the policy is changed. The public policy can only be challenged where it offends some constitutional or statutory provisions.”

82. In S. Gurdial Singh v. Ludhiana Improvement Trust, (1997) 5 SCC 138, considering Pista Devi's case, this Court observed that the benefit of providing alternative sites should not be uniformly



and mechanically extended to all the cases unless there is any express scheme framed by appropriate authorities and the scheme is in operation. This Court was considering the allotment of alternative sites for commercial purposes, as a local displaced persons in terms of acquisition of land by the Improvement Trust. It was observed as under:

“4. It is then contended, relying upon the decision of this Court in State of U.P. v. Pista Devi (1986) 4 SCC 251 : AIR 1986 SC 2025 that the appellants are entitled to allotment of alternative sites for commercial purpose. Therein, the land was acquired for housing development and the persons whose properties were sought to be displaced were directed to be provided housing accommodation under the schemes formed thereunder. The general ratio therein cannot be uniformly and mechanically extended to all the cases unless there is any express scheme framed by appropriate authorities and the scheme is in operation. Under these circumstances, we cannot give any express direction in this behalf. However, when the grievance was made by the appellants, an admission was made in the counter-affidavit filed in the High Court thus: “The petitioners could get a plot of land as local displaced persons in lieu of their acquired land according to rules on the subject.”

(Emphasis supplied)

83. In *Amarjit Singh v. State of Punjab*, (2010) 10 SCC 43, it has been held that rehabilitation is not a recognized right either under the Constitution or under the provisions of the Land Acquisition Act. Any beneficial measures taken by the Government are, therefore, guided only by humanitarian considerations of fairness and equity towards the landowners. The rehabilitation of the property owners is a part of the right to life guaranteed under Article 21 of the Constitution and that acquisition made in exercise of power of eminent domain for public purpose and that individual right of ownership over land must yield place to the larger public good. It was held as under:

“16. As regards the question of rehabilitation of the expropriated landowners, Mr. Subramaniam, submitted that rehabilitation was not a recognised right either under the Constitution or under the provisions of the Land Acquisition Act. Any, beneficial measures taken by the Government are, therefore, guided only by humanitarian considerations of fairness and equity towards the



landowners. The benefit of such measures is however subject to the satisfaction of all such conditions as may be stipulated by the Government in regard thereto. The policy relied upon by the appellants being only prospective cannot be made retrospective by a judicial order to cover acquisitions that have since long been finalised.

xxx xxx xxx

49. We must, in fairness to Mr. Gupta mention that he did not suggest that rehabilitation of the oustees was an essential part of any process of compulsory acquisition so as to render illegal any acquisition that is not accompanied by such measure. He did not pitch his case that high and in our opinion rightly so. The decisions of this Court in *New Riviera. Coop. Housing Society v. Land Acquisition Officer (1996) 1 SCC 731* and *Chameli Singh v. State of U.P. (1996) 2 SCC 549* have repelled the contention that rehabilitation of the property owners is a part of the right to life guaranteed under Article 21 of the Constitution so as to render any “compulsory acquisition for public purpose bad for want of any such measures.

50. In *New Riviera* case (*supra*). this Court held that if the State comes forward with a proposal to provide alternative sites to the owners, the Court can give effect to any such proposal by issuing appropriate directions in that behalf. But a provision for alternative sites cannot be made a condition precedent for every acquisition of land. In *Chameli Singh* case (*supra*) also the Court held that acquisitions are made in exercise of power of eminent domain for public purpose, and that individual right of ownership over land must yield place to the larger public good. That acquisition in accordance with the procedure sanctioned by law is a valid exercise of power vested in the State hence cannot be taken to deprive the right to livelihood especially when compensation is paid for the acquired land at the rates prevailing on the date of publication of the preliminary notification.

51. There is, thus, no gainsaying that rehabilitation is not an essential requirement of law for any compulsory acquisition nor can acquisition made for a public purpose and in accordance with the procedure established by law upon payment of compensation that is fair and reasonable be assailed on the ground that any such acquisition violates the right to livelihood of the owners who may be dependent on the land being acquired from them.”



52. Thus, for the purposes of compensation under the LA Act, eligibility of the present petitioners would be determined by the concerned authorities. However, in the peculiar facts and circumstances of the present case, when the eligibility criteria for rehabilitation have been framed in pursuance of the orders passed by learned Division Bench in petition being preferred by the owners challenging the land acquisition, then the petitioners herein cannot claim an inherent right to be eligible in the present policy. As already noted hereinbefore, given the limited resources *i.e.* land available with the respondent and also the fact that the Rehabilitation Policy, formulated by the Government of Delhi, recognises only the owners, the claim of the tenants/petitioners cannot be entertained. The impugned eligibility criteria is in consonance with the said Policy and cannot be interfered with.

C. *Petition filed by occupants of thada/stall holders-W.P.(C) 3733/2014*

53. The petitioners herein are seeking quashing of eligibility criteria dated 11.12.2013 for allotment of alternate plot. They claim to have purchased the thadas/stalls from the original licence holders. So far as these petitioners are concerned, it is an admitted case that they are not the original licensees to the thadas/stalls which were allotted by Slum and JJ Depart. on license basis. These petitioners have bought the license of thadas/stalls in violations of respective licenses. It is not the case of the petitioners that at any point of time any permission was obtained from the concerned Slum and JJ Depart. by the original allottees before transferring the said licenses in their favour. Thus, being illegal transferees of their respective thadas/stalls, this Court is of the considered opinion that they would not be eligible for allotment in the present policy.



D. Petitions filed by eligible persons, challenging vacation notice/ demolition order issued by NDMC- W.P.(C) 2113/2016, W.P.(C) 940/2017 & W.P.(C) 3192/2016

54. The petitioners in the present batch of writ petitions had challenged various vacation/ demolition notices issued to them by the respondent with respect to their land. The grievance of the petitioners herein is that the respondent had not allotted an alternate land to them and without such allotment, they cannot be asked to vacate their land. The status of the various writ petitioners in the present category is as under:-

- a) **W.P.(C) 2113/2016:** Petitioners herein were part of the list of eligible persons dated 26.02.2014. However, they had not become members of the Punjabi Basti Market Welfare Association, Nangloi, which was established in pursuance of the final eligibility criteria dated 11.12.2013.
- b) **W.P.(C) 940/2017:** Petitioner is a part of the list of eligible persons dated 26.02.2014 and he is also member of the Punjabi Basti Market Welfare Association, Nangloi.
- c) **W.P.(C) 3192/2016:** Petitioner is a part of the list of eligible persons dated 26.02.2014 and he is also member of the Punjabi Basti Market Welfare Association, Nangloi.

55. As noted hereinbefore, the grievance of the petitioners herein was with respect to their vacation from their respective land, in other words, their respective land cannot be taken into possession without handing over of alternate land/shop.



56. Learned Senior Counsel for the MCD had pointed out that alternate land has already been allotted and handed over to the Association formed by way of the eligibility criteria dated 11.12.2013 and it was now for the Association to take up steps for construction of shopping complex by themselves. It was further submitted that since the original land already stands acquired, the petitioners herein cannot continue with the possession of the said land in question, since once the acquisition has become final, the petitioners would have no legal or vested right to continue with the possession of such land.

57. At this stage, it is important to note that the present project in question, *i.e.*, construction of ROB and RUB at Sultanpur-Nangloi was proposed way back in the year 2007. The Construction of the aforesaid ROB and RUB is 95% physically complete at the site and the remaining work is progress. However, the work has been held up in the relevant stretches with respect to land in question in the present petitions. Thus, there is an urgency with respect to completion of the aforesaid project which is in public interest. It was further pointed out by learned Senior counsel for the respondent that the remaining portion of the ROB which could not be completed is also an extreme traffic zone and it is becoming a hazard putting commuters at risk. Thus, the present project which is of public importance has been pending since long and has not been completed because of the present petitions.

58. Pertinently, the learned Division Bench in LPA No. 585/2014 on 05.02.2015, in terms of the statement made by the learned counsel for the respondent, had passed the following order:-



“1. Learned counsel for the respondent states that till when alternative site/land would be allotted to the appellants, they would not be dispossessed from the site occupied by them.

2. The order impugned in the appeal is dated May 20, 2014 which has dismissed CM No.6565/2014, simply observing that interim relief in a matter where a public project is under way cannot be granted.

3. It cannot be said as a matter of law that in each and every case where a public project is involved the Court would be denuded the power to grant an interim stay.

4. Be that as it may, in view of the stand taken by learned counsel for the respondent that till alternative sites are offered to the appellants none of them would be dispossessed from the site, binding the respondents to the stand taken, nothing survives for adjudication in the appeal.

5. The file of W.P.(C) No.3152/2014 has been sent in Court and we find that the next date of hearing before the learned Single Judge is March 18, 2015. We would request the learned Single Judge to try and dispose of the writ petition as early as possible and would simultaneously advise the respondents to file a counter affidavit in the writ petition which in spite of an order dated October 29, 2014 has not been filed.

6. The appeal is disposed of in terms of para 4 above. ”

59. Admittedly, the land measuring 1162.295 sq. metres has been handed over by the respondent to the Association through its President and Secretary. It is also a matter of record that a registered sale deed has been executed between the Association and the respondent on 06.07.2018 with respect to the said land. In these circumstances, the land has already been handed over to the Association for construction of local shopping complex.



E. Petitions filed by persons, who have not paid conversion charges till the cut-off date, i.e., 10.04.2012- W.P.(C) 2731/2014, W.P.(C) 2735/2014, W.P.(C) 8508/2014, W.P.(C) 8325/2014 & W.P.(C) 10103/2016

60. Learned counsel for the petitioners had contended that they have been denied benefit of rehabilitation on the ground of non-payment of conversion charges as on 10.04.2012, which is provided for in clause 2 of the impugned eligibility criteria dated 11.12.2013. It was submitted that in the affidavit dated 01.10.2012 filed in W.P.(C) 1852/2010 NDMC, while setting out the eligibility criteria for allotment of alternate land, had stated about payment of conversion charges as a pre-condition for rehabilitation but there was no cutoff date mentioned for paying the same. It is submitted that the NDMC has stated before the learned Division Bench that no other condition apart from the condition set out in the said affidavit shall be imposed. It is further submitted that the cutoff date, i.e., 10.04.2012 is arbitrary as the eligibility criteria dated 11.12.2013 itself was published thereafter and therefore there was no level playing field for the affected persons. It was further submitted that in pursuance of order dated 03.10.2012, NDMC had published the draft criterion dated 10.10.2012 and the same did not provide for any cutoff date for payment of conversion charges.

61. On 10.04.2012, learned Division Bench of this Court passed the following order in W.P.(C) 1852/2010:

“ Learned counsel for the MCD states that the MCD proposes to fix a date by when the persons claiming any right of rehabilitation must furnish their documents to be verified. He submits that adequate publicity will be given in the locality with stipulation that failure to file the documents by a cut-off date would make the persons ineligible. It is suggested that the dates be fixed today itself.



Learned counsel for the MCD states that three dates may be fixed because there have been a number of persons who may be wanting to lodge their documents. At his request the dates are fixed as 9th, 10th and 11th, May 2012 between 11:00 a.m. to 4:00 p.m. in the office of the Executive Engineer (Project), West-I, near Moti Nagar flyover, Delhi. The MCD would thereafter proceed to draw the list of eligible persons and place the same before the court at least three days prior to the next date of hearing.

It is also stated in the affidavit that on the issue of change of land use no response is being received from the DDA despite letter dated 03.01.2012 and reminder dated 02.03.2012. We direct the DDA to take steps for change of land use in pursuance of letter of the MCD referred to and this order be brought to the notice of the Director (Master Plan), DDA as also the vice Chairman, DDA.”

62. It is the case of the NDMC that the payment of conversion/parking charges is the legal duty of the owners/proprietors of the establishment and now by not paying the same, they have failed to fulfil the said legal duty. Since the land available is limited, therefore, the date of cutoff with respect to conversion/parking charges was kept as 10.04.2012. It is noted that some of the petitioners in the present case had deposited the conversion charges only after declaration of eligibility criteria dated 11.12.2013. It is pertinent to note that in the affidavit dated 01.10.2012, the MCD had made the following submissions:

“4. That the department on the basis of detailed deliberations and the documents received from the various applicant has framed guidelines/criteria for drawing a list of eligible applicants. The said guidelines are as follows:-

(i) Only such applications will be considered which were submitted upto last/cutoff date i.e., 11.05.2012 in terms of order dated 10.04.2012 of the Hon’ble Court.

(ii) Since the land for rehabilitation is limited i.e. land measuring 1162.295 sqm., purchases from the DUSIB, and only few persons can be accommodated, thus only owners who have paid conversion charges and parking charges in respect of their acquired property



would be considered subject to fulfilment of other conditions. Only such owners will be eligible for consideration who are left with no other space in the same locality.”

63. It is pertinent to note that the cutoff date *i.e.* 10.04.2012 was thus on the basis of the order of even date of the learned Division Bench in W.P.(C) 1852/2010, when the last date for furnishing documents to be verified was finalised. In *Rohit Raj Chhabra & Ors. v. UOI & Ors.*⁹, learned Division Bench of this Court while dealing with the issue of cut-off date in Rehabilitation Policy, observed and held as under:

“26. When the government or an executive agency or department formulates a policy, myriad considerations — the effect of the policy on existing systems, the likely impact on stakeholders concerned, financial implications, etc. are to be taken into account and appropriately balanced. Often, aspirations and expectations of groups are to be accommodated. In carrying out a policy formulation exercise for rehabilitation of landowners and other occupants displaced from their holdings or properties on account of land acquisition, the government has to necessarily consider availability of such alternative lands, its cost (including cost of acquisition and cost of development, etc). If the power of eminent domain is exercised for a public purpose to be fulfilled by a third party executive agency, which funds the acquisition, the government would take or collect the requisite compensation amount (for disbursement) as well as additional sums to fund fresh land acquisition or purchase of property for development of alternative plots. These necessarily involve detailed planning and financial forecasting. If the amounts are not forthcoming, the government has to budget for them. If a policy, is made effective from a particular date, the government is then better placed to assess its own needs and collect the requisite sums from the third party agency, which needs lands. However, if the date of the policy is changed, or advanced by a few years, inevitably, the agency might well find it impossible to achieve its very objectives. The pressure on resources (availability of readily developed land, money or budget allocation for acquiring alternative land that is not provided for etc.) can be burdensome and beyond the Court's domain of expertise.

⁹ 243 (2017) DLT 427 (DB)



29. Yet again, in *Government of A.P. v. N. Subbarayudu IV*, (2008) 14 SCC 702 : (2008) SLT 736, the Supreme Court, speaking in its judgment/while considering a challenge to a cut off date held that: “7. There may be various considerations in the mind of the executive authorities due to which a particular cut-off date has been fixed. These considerations can be financial, administrative or other considerations. **The Court must exercise judicial restraint and must ordinarily leave it to the executive authorities to fix the cut off date. The Government must be left with some leeway and free play at the joints in this connection. 8. In fact several decisions of this Court have gone to the extent of saying that the choice of a cut off date cannot be dubbed as arbitrary even if no particular reason is given for the same in the counter affidavit filed by the Government, (unless it is shown to be totally capricious or whimsical), vide ‘State of Bihar v. Ramjee Prasad, Union of India v. Sudhir Kumar Jaiswal (vide SSC para 5), Rmnr Rao v. All India Backward Class Bank Employees Welfare Assn. (vide SCC para 31), University Grants Commission v. Sadhana Chaudhary etc. It follows, therefore, that even if no reason has been given in the counter affidavit of the Government or the executive authority as to why a particular cut off date has been chosen, the Court must still not declare that date to be arbitrary and violative of Article 14 unless the said cut-off date leads to some blatantly capricious or outrageous result.’**”

30. In view of the above discussion, it is held that there is no invidious discrimination or arbitrariness in the matter of choice of date for making the impugned notification and the benefits spelt out therein, effective. The cut-off date was not “picked out from a hat” (to borrow the expression from *D.R. Nim v. Union of India*, (1967) 3 DLT 627 (SC) : AIR 1967 SC 1301). The date based classification was not irrational.”

(emphasis supplied)

64. The cutoff date of filing of the application was kept as 11.05.2012 in terms of specific direction of learned Division Bench. Although, the cutoff date *i.e.* 10.04.2012 for payment of conversion charges, may not be mentioned in the draft criteria as stated in the said affidavit, however, the date as fixed is not arbitrary or random but on the basis of a reasonable classification so as to ensure fairness to all eligible persons on the said date. It



is pertinent to note that the final criteria dated 11.12.2013 was published after submissions of the documents by various applicants and, thereafter the final list of eligible persons was published on 26.02.2014. The draft criteria dated 10.10.2012 had stated that documents with respect to payment of conversion charges is also required to be found eligible for rehabilitation. Thus, various applicants who had submitted the requisite documents before 11.05.2012 and had paid the conversion charges before cut off date *i.e.* 10.04.2012 were found to be eligible. It is not only the petitioners, who were not aware of the said cutoff date but the other eligible persons, who have been paying conversion charges were also not aware of the said date, however, they did pay the same, nonetheless. In these circumstances, it cannot be said that the cut off date was arbitrarily inserted to the detriment of the petitioners.

65. In the present batch of petitions, admittedly, status of the petitioners with respect to payment of conversion charges is as follows:-

- a) In W.P.(C) 2731/2014, petitioner nos. 2, 5 and 6 had not paid the conversion charges and petitioner nos. 1, 3 and 4 had paid the conversion charges although belatedly *i.e.* after the cut off date 10.04.2012;
- b) In W.P.(C) 2735/2014 and W.P.(C) 8508/2014, petitioners had not paid the conversion charges;
- c) In W.P.(C) 8325/2014, petitioner had paid conversion charges on 25.03.2013 *i.e.* after the cut off date 10.04.2012;



d) In W.P(C) 10103/2016, petitioner no. 1 did not pay the conversion charges and petitioner no. 2 had paid the conversion charges on 16.01.2014 *i.e.* after the cut off date 10.04.2012.

F. Petition filed by persons, who failed to submit requisite documents by cut-off date *i.e.* 11.05.2012-W.P.(C) 320/2016

66. In the present petition, it has been pointed out that petitioner herein had applied for rehabilitation on 11.05.2012 along with certain documents, which as per the respondent, were not as per the final criteria dated 11.12.2013. In the present petition, the petitioner has attached the receipt of conversion charges dated 28.03.2008 as Annexure F to the petition, however, it is the case of the respondent that he did not attach the same with his application for allotment of alternate land. Moreover, learned Senior Counsel for the respondent submitted that complete chain of ownership was also not filed.

67. As per the respondent, the petitioner had submitted only a GPA in favour from one Shri Kashmiri Lal Jain executed in the year 1998 and thus, the chain of ownership submitted by the petitioner could not establish, whether the latter was the actual owner of the shop in question.

68. In these circumstances, it is deemed appropriate that the application of the petitioner filed along with the documents on the cut off date *i.e.* 11.05.2012 be considered and a speaking order with regard to eligibility/non-eligibility of the petitioner be passed with due intimation to the petitioner



herein within a period of 15 days from today.

G. Petitions filed by persons, challenging decision of NDMC holding them not entitled for rehabilitation-W.P.(C) 11905/2016 & W.P.(C) 3644/2023

W.P.(C) 11905/2016

69. In the present petition, names of both the petitioner herein and his wife were initially included in the list of eligible persons dated 26.02.2014. However, petitioner's wife approached this Court *vide* W.P.(C) 4877/2016, wherein *vide* order dated 12.08.2016, this Court directed the respondent to treat the said writ petition as representation. The grievance raised by the petitioner's wife in the said writ petition was that the NDMC have wrongly allotted smaller size of shops and correct categorization needs to be made. In response thereto, a survey was conducted by the respondent on 03.09.2016 and it was found that the petitioner herein was not eligible for rehabilitation in terms of clause 4 of the final criteria dated 11.12.2013. In pursuance thereof, the said error was rectified by issuing the impugned letter dated 03.10.2016. As per the said survey, the area of the petitioner's wife was found to be 40.33 sq. metre as against 11.70 sq. metre found during the survey in October, 2014. It was also noted by the NDMC that an artificial division of the subject property was created and the petitioner herein had executed GPA dated 08.07.1999 in favour of his wife with respect to whole of the subject property. Thus, as per the respondent, the factum of transferring the entire property by the petitioner was suppressed by him and it was only in pursuance of the directions in W.P.(C) 4877/2016, it was discovered that the basement as well



as ground floor was owned by Ms. Pushpa, *i.e.* wife of the petitioner. Clause 4 of the final criteria dated 11.12.2013 reads as under:-

“4. The owners of the property have transferred the built up structure by sub-division to the various persons and in some cases one owner is occupying many built up properties. Only one flat will be given to one single owner irrespective of their holding.”

70. Apart from the above, it is also the case of the respondent that the petitioner herein also does not fulfil clause 2 of the final criteria, which reads as under:-

“2. Since the land for rehabilitation is limited *i.e.* land measuring 1162.295 sqm purchased from the DUSIB, and only few persons can be accommodated, thus only owners who have paid conversion charges / parking charges upto out of date *i.e.* 10.4.2012 in respect of their acquired property would be considered subject to fulfillment of other conditions. Only such owners will be eligible for consideration who are left with no other space in the same locality.”

71. Documents filed by the petitioner shows that the conversion charges were paid by the petitioner in one go from 2007-08 to 2011-12 and by his wife of the year 2012-13 on 08.05.2012, which was beyond the cut off date *i.e.* 10.04.2012. It is thus, contended that even the petitioner’s wife was also wrongly included in the list of eligible persons. However, the petitioner has deposited a sum of Rs. 2.5 lakhs with the Association.

72. A perusal of the GPA dated 08.07.1999, placed on record by the petitioner, reflects that he was the owner of entire built up plot bearing no.13-



A, consisting of basement, ground floor and first floor, total admeasuring area as 70.77 sq. yards and by way of said document, he had sold/ transfer the basement of the said property, measuring 13.55' x 50.33' (without roof terrace rights) to his wife- Mrs. Pushpa. Thus, the contention of the learned Senior Counsel for the respondent that entire subject property was transferred in the name of the petitioner's wife is incorrect and thus, his name could not have been struck off from the eligibility list on that account.

73. However, it is now stated that even the conversion charges were paid by the petitioner and his wife on 08.05.2012, *i.e.* after the cut-off date. This Court has already upheld the sanctity of the cut-off date-10.04.2012, in the preceding paragraphs. Thus, in these circumstances the petitioner herein would not be eligible as per final criterion dated 11.12.2013. Since, the petitioner's wife matter is not before this Court, this Court will not pass any comments thereupon. However, the petitioner will be entitled to refund of Rs. 2.5 lakhs deposited with the Association. The same shall be refunded to the petitioner on his moving an appropriate application in this regard within four weeks.

W.P.(C) 3644/2023

74. *Vide* order dated 22.03.2023, notice was issued to the respondent. However, counter affidavit/ written submissions on behalf of the respondent have not been filed. Further, the present writ petition is silent as to whether conversion charges has been paid with respect to the subject premises herein.



The main grievance of the petitioner herein is that the final criterion dated 11.12.2013 had been passed without replying to his objections dated 18.10.2012, raised against the draft notification dated 10.10.2012. In view of the above, let the present writ petition be treated as representation, to be decided by the NDMC within a period of 15 days from today, by way of a speaking order under intimation to the petitioner.

CONCLUSION

75. In view of the aforesaid discussion, following conclusions have been arrived at: -

- a)** This Court finds no infirmity in the final criterion dated 11.12.2013 bearing no. EE(PR)III/RZ/2013-14/405 issued by the NDMC.
- b)** So far as the challenge to final list dated 26.02.2014 bearing no. EE(Pr)III/RZ/2013-14/541 is concerned, this Court has already dealt with the same in the preceding paragraphs. Thus no further directions are called for.
- c)** All persons occupying the subject land which stands acquired shall vacate and handover peaceful and vacant possession to the concerned authorities within a period of three months from today.
- d)** During the course of hearing, concerned representative of Punjabi Basti Market Welfare Association, Nangloi/ Association had submitted that necessary documents for sanction of building plans for the Local Shopping Centre (LSC) near Punjabi Basti, Nangloi Phase-I has been submitted at the Office of Executive Engineer Project, Rohini. In these circumstances,



President and Secretary of the said Association are directed to complete all the necessary formalities for starting the construction of the said LSC within a period of four weeks from today. The concerned officer of the competent Authority shall ensure fullest cooperation to ensure that the sanction building plan are in order and construction thereof should start immediately under the supervision of the MCD.

e) The Commissioner, MCD is requested to constitute a three-member committee comprising of the Deputy Commissioner of the area and two authorised officers from the concerned departments to supervise the construction of the said Centre in terms of the lease deed dated 06.07.2018. The construction shall be carried out as per the layout plan approved by the MCD.

f) The Punjabi Basti Market Welfare Association, Nangloi, and the concerned officers appointed by the MCD shall furnish a monthly report to this Court with regard to the progress of construction of the said LSC.

76. Resultantly, W.P.(C) 3152/2014, W.P.(C) 2160/2014, W.P.(C) 2731/2014, W.P.(C) 2735/2014, W.P.(C) 3733/2014, W.P.(C) 8325/2014, W.P.(C) 8508/2014, W.P.(C) 10103/2016, W.P.(C) 11905/2016, W.P.(C) 2113/2016, W.P.(C) 3192/2016, W.P.(C) 1179/2017 and W.P.(C) 940/2017 stands dismissed.

77. W.P.(C) 320/2016 and W.P.(C) 3644/2023 as noted herein before in paragraph Nos. 68 and 74 respectively shall be considered as a representation by the NDMC and the same shall be decided within a period of 15 days from



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today.

78. Pending application(s), if any, also stands disposed of.

79. In view of the conclusion arrived at in paragraph no. 75, particularly sub-para (e) and (f), list before Roster Bench for compliance on 07.08.2026.

80. Judgment be uploaded on the website of this Court *forthwith*.

AMIT SHARMA
(JUDGE)

JUNE 30, 2026/bsr/nk/sg