



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

% **Judgement reserved on : 06 December 2024**
Judgement pronounced on : 26 May 2025

+ W.P.(C) 12348/2023 & CM APPL. 48641/2023, CM APPL. 48642/2023, CM APPL. 48643/2023

RAM DEV RAI & ANR.Petitioners

Through: Mr. Musheer Zaidi, Advocate.

versus

DELHI URBAN SHELTER IMPROVEMENT BOARD & ANR.Respondents

Through: Mr. Anuj Chaturvedi, Mr. Harshita Maheshwari and Mr. Pawan Karan Deo, Advs. for DUSIB.

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

Mr. Sahil Talwar, Adv. for Simranjyot Singh, Standing Counsel.

+ W.P.(C) 12981/2023 & CM APPL. 51208/2023

PREMA BALAPetitioner

Through: Mr. Aayush Agarwala, Mr. Kunj Mehra and Mr. Nilesh Kumar, Advs.

versus

DELHI DEVELOPMENT AUTHORITYRespondent

Through: Mr. Anuj Chaturvedi, Mr. Harshita Maheshwari and Mr. Pawan Karan Deo, Advs. for DUSIB.

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

+ W.P.(C) 6312/2023

GOVINDA AND ORS.Petitioners



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

versus

GOVERNMENT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Anuj Chaturvedi, Mr.
Harshita Maheshwari and Mr.
Pawan Karan Deo, Advs. for
DUSIB.
Ms. Kritika Gupta and Ms.
Chand Chopra, Advs. for DDA.

+ W.P.(C) 7832/2023
MANJOOR ALI

.....Petitioner

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

versus

GOVERNMENT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Anuj Chaturvedi, Mr.
Harshita Maheshwari and Mr.
Pawan Karan Deo, Advs. for
DUSIB.
Mr. Sanjay Katyaal Standing
Counsel with Ms. Chand
Chopra and Ms. Neha
Bhupatiraju, Advs. for DDA.

+ W.P.(C) 8070/2023 & CM APPL. 31124/2023
JANMENJAY SAMANTA & ANR.

.....Petitioners

Through: Mr. Udit Seth and Mr. Roshan
Roy, Advs.

versus

GOVERNMENT OF NCT DELHI & ANR.Respondents

Through: Mr. Anuj Chaturvedi, Mr.
Harshita Maheshwari and Mr.



Pawan Karan Deo, Advs. for
DUSIB.

Mr. Sanjay Katyaal Standing
Counsel with Ms. Chand
Chopra and Ms. Neha
Bhupatiraju, Advs. for DDA.

+ W.P.(C) 15906/2023 & CM APPL. 64005/2023

KANAN BISWASPetitioner

Through: Mr. Savyasachi Rawat, Adv.
versus

GOVERNMENT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Anuj Chaturvedi, Mr.
Harshita Maheshwari and Mr.
Pawan Karan Deo, Advs. for
DUSIB.

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

+ W.P.(C) 169/2024

ANWAR KHANPetitioner

Through: Mr. Aayush Agarwala and Mr.
Nilesh Kumar, Advs.

versus

DELHI DEVELOPMENT AUTHORITYRespondent

Through: Mr. Sanjay Katyal, Standing
Counsel with Ms. Kritika Gupta
and Ms. Chand Chopra, Advs.
for DDA

Mr. Anuj Chaturvedi, Ms.
Harshira Maheshwari and Mr.
Pawan Kumar Deo, Advs. for
DUSIB.



+ W.P.(C) 357/2024

BIDHAN BISWAS

.....Petitioner

Through: Mr. Aayush Agarwala and Mr.
Nilesh Kumar, Advs.

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Mr. Sanjay Katyal, Standing
Counsel with Ms. Kritika Gupta
and Ms. Chand Chopra, Advs.
for DDA

Mr. Anuj Chaturvedi, Ms.
Harshira Maheshwari and Mr.
Pawan Kumar Deo, Advs. for
DUSIB.

Ms. Mehak Nakra, ASC
(GNCTD) with Ms. Gunjan
Suyal and Mr. Aditya Goyal,
Advs. for R-3.

+ W.P.(C) 8569/2023 & CM APPL. 32574/2023

BAIJNATH

.....Petitioner

Through: Mr. Sharad Chandra Jha & Mr.
Girish Kumar, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Kritika Gupta, Adv. For
DDA

+ W.P.(C) 2277/2024 & CM APPL. 9501/2024

AJAY KUMAR

.....Petitioner

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

Versus

DELHI DEVELOPMENT AUTHORITY & ORS.

.....Respondents

Through: Ms. Kritika Gupta and Mr.
Sanjay Katyal, Advs. for DDA.



CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. This common judgment shall dispose of the aforementioned writ petitions, which have been preferred by a bunch of petitioners, either jointly or individually, invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, 1950, thereby seeking common reliefs in the nature of directing respondent No.2/DDA¹ to suspend any further demolition work and maintain *status quo* at the site, and desist from carrying out any physical eviction of the petitioners from their respective jhuggi jhopri clusters falling in *Bhoomiheen* Camp, Govind Puri, Kalkaji, New Delhi-110019. The petitioners also seek a direction to respondent No.1/DUSIB² to conduct a proper and comprehensive survey of the affected residents and to rehabilitate them in accordance with the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015³.

2. The issues raised by the petitioners involve common questions of law arising from broadly similar facts and circumstances. It is an admitted position at the Bar, as submitted by the learned counsels for the respective parties, that the present matters pertain to the **category where the petitioners were not found to be residing at the site in question at the time of the surveys purportedly conducted by DUSIB. The petitioners, instead of availing the remedy of**

¹ Delhi Development Authority

² Delhi Urban Shelter Improvement Board

³ 2015 Policy



submitting their respective claims before the Eligibility Determination Committee⁴, have directly approached this Court by way of the present writ petitions, challenging the action of DDA in proceeding with the demolition of their jhuggi jhopri structures.

3. For the purposes of discussion, W.P.(C) No. 6312/2023 titled *Govinda v. Government of NCT of Delhi* has been taken to be the lead case, and the averments and assertions made therein have been reproduced for reference. The particulars of each petitioner in the lead case, as well as those in the other connected matters, are set out in the accompanying Tabular Chart, annexed to this common judgment as ANNEXURE 'A'.

PART-'A'

BACKGROUND

4. Briefly stated, W.P.(C) No. 6312/2023 has been filed jointly by 34 petitioners. The common case set up by the petitioners is that each of them, along with their respective family members, has been in possession and occupation of their jhuggi jhopri structures located at a place known as Bhoomiheen Camp, Govind Puri, Kalkaji, which is stated to have been in existence since the early 1990s. The petitioners claim to be migrants from the States of Uttar Pradesh, Bihar, West Bengal, and other regions, and are stated to be engaged in occupations such as factory labour, work in local shops, domestic help, and other forms of menial employment.

5. The grievance of the petitioners is that DDA, in an arbitrary and

⁴ EDC



illegal manner, has proposed to demolish their jhuggi-jhopdis, which action they contend is contrary to the “2015 Policy”. The petitioners submit that the 2015 Policy mandates *in-situ* rehabilitation of eligible *jhuggi* dwellers and lays down detailed guidelines for determining eligibility for such rehabilitation. It is further submitted that the policy was framed with the objective of advancing the welfare of Economically Weaker Sections of society and is based on a rational criterion for providing alternate housing to eligible residents through State intervention.

6. It is the case of the petitioners that DUSIB has been entrusted with the role of the nodal agency for implementation of the 2015 Policy, which clearly stipulates that JJ Camps/Bastis⁵ that came into existence prior to **01.01.2006** shall not be demolished without providing alternate housing. Furthermore, in order to qualify for rehabilitation under the 2015 Policy, the cut-off date for residence in the jhuggi is fixed as **01.01.2015**. Referring to Part-B of the 2015 Policy, it is stated that a JJ Dweller **is required to possess any one of the following 12 documents issued before 01.01.2015:**

- Passport
- Rational Card with Photograph
- Electricity Bill
- Driving License
- Identity Card/Smart Card with photographs issued by State/Central Government and/or its Autonomous

⁵ Jhuggi Jhopdis



Bodies/Agencies like PSU/Local Bodies (except EPIC)

- Passbook issued by Public Sector Banks/ Post Office with photograph
- SC/ST/OBC Certificate issued by Competent Authority
- Pension document with photograph such as Ex-Serviceman's Pension Book, Pension Payment Order, Ex- Serviceman widow/dependent certificate, old age pension order or widow pension order
- Freedom Fighter Identity Card with passport
- Certificate of physically handicapped with photograph issued by the Competent Authority
- Health Insurance Scheme Smart card with photograph (Ministry of Labour Scheme)
- Identity card with photograph issued in the name of the descendants of the slum dweller from a Government School or certificate with photograph issued by the Principal of a Government School mentioning therein that the descendants of JJ dweller is/was the student of the school.

7. It is further pointed out that Part B of the 2015 Policy additionally prescribes certain eligibility criteria, including that: (i) the name of the JJ dweller must appear in at least one of the voters' lists of the years 2012, 2013, 2014, or 2015, as well as in the year of the survey; (ii) the name of the JJ dweller must be reflected in the joint survey conducted by respondent No. 1 and the concerned land-owning agency; and (iii) the JJ dweller must be in possession of **any one** of



the twelve specified documents issued prior to 01.01.2015. Among these, the **Ration Card with Photograph** and the **Electricity Bill** are particularly emphasized. The 2015 policy also clarifies that where a different family, holding a separate ration card issued prior to 01.01.2015, resides on an upper floor of the same premises, such family shall also be considered eligible for allotment of a separate dwelling unit. It is submitted that although DDA has constituted the EDC, the petitioners have been deliberately excluded from the survey list, despite having submitted all relevant documents that, in their view, establish their eligibility for alternate housing under Part B of the 2015 Policy.

8. The primary grievance of the petitioners is that DUSIB has failed to discharge its statutory obligations, and that the surveys at their respective sites were conducted in blatant violation of the 'Protocol 2015' by an obscure, outsourced agency appointed by DDA. It is further contended that DDA, by its purported actions of threatening demolition and physical eviction from their jhuggis-jhopdis/dwelling units, is infringing upon the petitioners' fundamental right to shelter, which is an essential component of the right to life under Article 21 of the Constitution of India, 1950, and is also protected under Article 19(1)(g). It is in these circumstances that the petitioners have approached this Court seeking relief.

STAND OF THE DUSIB

9. DUSIB, in its counter affidavit filed through Mr. Ajay Kumar Datta, Deputy Director (Rehabilitation), dated 06.01.2023, has not provided a para-wise reply to the allegations made in W.P.(C) No.



6312/2023, instead reserving its right to file a detailed counter reply at a later stage. In its preliminary stand, DUSIB states that it is a statutory Board constituted under the provisions of the DUSIB Act, 2010, an enactment of the Legislative Assembly of the NCT of Delhi, and is empowered to prepare schemes for the removal of jhuggi-jhopri camps and the resettlement of their residents. However, DUSIB relies on the proviso to sub-section (3) of Section 10 of the DUSIB Act to assert that the land in question, where the jhuggi-jhopri clusters are situated, falls under the jurisdiction of the Central Government and its agencies. It is thus submitted that any process of removal and resettlement must be undertaken only with the prior consent of the Central Government or the concerned land-owning agency⁶.

10. While acknowledging that, under the 2015 Policy, it is designated as the nodal agency for initiating the process of rehabilitation and relocation, DUSIB has nonetheless stated that, in the present case, since DDA is the LOA tasked with undertaking *in-situ* rehabilitation of the concerned JJ dwellers under the Pradhan Mantri Awas Yojana – Housing for All (Urban)⁷, DUSIB has no role to play in the alleged sealing drive, nor in the determination of eligibility for relocation or rehabilitation of those found to be eligible.

STAND OF RESPONDENT NO. 2/DDA

11. DDA, in its counter affidavit submitted through Mr. Prakash Chand, Deputy Director, dated 30.05.2023, has raised preliminary objections, *inter alia*, to the effect that the writ petitions are liable to

⁶ LOA

⁷ PMAY-HFA(U)



be dismissed outright for being bad for misjoinder of parties, as there exists no similarity or commonality in the facts, circumstances, or documents pertaining to the individual petitioners. It is further contended that the petitioners have failed to exhaust the alternative remedies available to them under the '2015 Policy.' Additionally, it is submitted that the petitions raise highly disputed questions of fact relating to the petitioners' eligibility for rehabilitation under the extant policy, issues which, it is argued, cannot be adjudicated upon in writ proceedings under Article 226 of the Constitution, 1950.

12. The petition is further challenged as being bad in law for contravening the provisions of Sections 20A and 41(h)(a) of the Specific Relief (Amendment) Act, 2018, and for being contrary to the judgment of the Division Bench of this Court in **Delhi Development Authority v. Pushpa Wanti & Ors.**⁸ It is contended that the petitioners have failed to take expeditious steps following the order dated 10.01.2023 and have approached this Court belatedly. DDA has referred to the procedure adopted for conducting the surveys, the timelines provided for filing objections, and the recourse available before the EDC. Consequently, DDA challenges the petitioners' alleged *mala fide* intention to perpetuate encroachment on public land.

13. It suffices to state that in its counter affidavit, DDA has submitted that fair, reasonable, and equitable measures have been undertaken to identify the JJ slum dwellers by engaging an outsourced agency, namely SPYM⁹. Reference is made to the proceedings

⁸ 2022 SCC OnLine Del 4083

⁹ Society for Promotion of Youth and Masses



conducted by the EDC, particularly Authority Resolution No. 33/2017, which clarifies that residents of upper floors who do not possess separate ration cards issued prior to 01.01.2015 are not eligible for relocation or resettlement under the extant policy, as specified in Part-B, paragraph 10 of the said Authority Resolution. A para-wise response has been filed, and it is reiterated that each petitioner raises highly disputed questions of fact, which cannot be adjudicated in the present proceedings. In summary, the allegations by the petitioners regarding any deviation from the procedure prescribed under the ‘2015 Policy’ read with the ‘Protocol 2015’ are vehemently denied.

LEGAL SUBMISSIONS ADVANCED AT THE BAR FOR THE PETITIONERS

14. Mr. Mr. Vivek Tandon, learned counsel for the petitioners, took this Court through the entire narrative of the 2015 Policy, drawing attention in particular to Part-B, Clause 1(iv), as well as Part-A, Clause 2(a)(iv), in addition to the draft ‘Protocol-2015’. He pointed out that the said Policy and Protocol were formulated pursuant to the directions issued in **Ajay Maken v. Union of India**¹⁰ dated 14.12.2015. It was vehemently contended that respondent No. 1/DUSIB was designated as the Nodal Agency for implementation of the ‘2015 Policy’ read with the ‘Protocol-2015’ under the provisions of the DUSIB Act. However, respondent No. 2/DDA sidelined DUSIB, inasmuch as DUSIB was not involved in conducting the joint survey along with the land-owning agency, i.e., respondent No.

¹⁰ W.P.(C) 11616/2015



2/DDA. It was further pointed out that respondent No. 1/DUSIB, in its counter affidavit, specifically in paragraphs (8) and (9), has admitted that it played no role either in the alleged sealing drive, the determination of eligibility for rehabilitation, or in the rehabilitation process of those found eligible, and that it had no involvement whatsoever in the removal or rehabilitation exercise.

15. It was emphasized that, as per the established guidelines, it was DUSIB which had the statutory obligation to take the lead in ensuring that the *in-situ* rehabilitation of JJ dwellers was carried out in both letter and spirit of the 2015 Policy prior to any demolition activity being undertaken by the LOA, i.e., DDA. Instead, it was alleged that DDA unilaterally entrusted the survey work to an obscure agency, namely, the SPYM, for the purpose of conducting surveys of the identified JJ clusters, without imparting any training to its personnel. The said outsourced agency is alleged to have conducted the survey in complete violation of the prescribed guidelines. Challenging the genuineness and veracity of the data collected by SPYM, it was contended that no notice was ever served upon any of the petitioners. Even assuming that some petitioners were not present at their respective JJ dwelling units at the relevant time, it was argued that no public notices were pasted at the site, no awareness camps were conducted, and no video recordings of the surveys were made as mandated under the Protocol-2015.

16. It was further submitted that although the survey data is purported to have been collected in the month of October 2019, there is complete silence as to the precise dates on which the survey was



conducted. There is also no clarity as to when and where the notices for the survey were displayed or pasted. Reliance was placed on various clauses of the Protocol-2015, particularly Clause B(vi) of Point 6, which provides that in cases where houses were found to be locked, the joint survey team was required to carry out a revisit after a week's time to ensure those households were not left out. It was pointed out that there were instances wherein SPYM personnel had visited the jhuggi-jhopris when all adults were away for work and children were attending schools or tuition classes, resulting in the homes being locked during the initial visit.

17. It was further pointed out that the notices dated 30.08.2021, inviting claims and objections from JJ dwellers, were pasted only at two locations, one near the public toilet (*sochalaya*) and another near the Kali Mata Mandir, and not at any other prominent or accessible locations within the *Bhoomiheen* Camp. It was further contended that no awareness camp was set up at the DDA site office on 31.08.2018, as purported. Moreover, the notice was allegedly pasted on an A-4 size sheet of paper, which was wholly inadequate and ineffective, especially considering that the majority of JJ dwellers are illiterate and would not be able to comprehend such minimal and inconspicuous communication.

18. Lastly, Mr. Tandon submitted that although some of the petitioners did approach the EDC, their representations were not entertained on the ground that the EDC was mandated only to examine the rejection of applications of JJ dwellers who had been found ineligible during the survey, and that it had no jurisdiction to consider



cases where individuals were completely left out of the survey list. It was therefore contended that DDA, acting under a predetermined plan, intended to rehabilitate only 1,862 households from the *Bhoomiheen* Camp, despite the fact that 3,024 new EWS¹¹ housing units had already been constructed, specifically for the purpose of rehabilitating JJ dwellers from the said Camp.

19. It may be pointed out that the learned counsels appearing for the petitioners in the other connected writ petitioners reiterated and aligned their submissions with the arguments advanced by Mr. Vivek Tandon, learned counsel for the petitioners in W.P.(C) No.6312/2023. Mr. Ayush Agarwala, learned counsel for the petitioners in W.P.(C) No.169/2024 and W.P.(C) No.357/2024, submitted that the right to shelter is not only a basic human right but also a fundamental right guaranteed by Article 21 of the Constitution of India, 1950. He contended that this right has been read repeatedly into Article 19 (e) by judicial interpretation. In support of this submission, reliance was placed on the decisions in **Sri P. G. Gupta v. State of Gujarat**¹² and **Shantistar Builders v. Narayan Khimala Totame**¹³.

20. Summarizing his submissions, Mr. Agarwala contended that the rights of the JJ dwellers have been duly recognized under clause 4.2.3 and 4.2.3.1 of the MPD-2021¹⁴, which accord priority to *in situ* rehabilitation as a preferred mode of resettlement. Reliance was

¹¹ Economically Weaker Section

¹² 1995 (2) SCC 182

¹³ (1990) 1 SCC 520

¹⁴ Master Plan for Delhi 2021



placed on the decision in **Sudama Singh v. Government of Delhi**¹⁵. He further argued that the core issue rising for consideration is whether such a basic human and fundamental right can be denied merely on account of temporary absenteeism from the property, and, if so, whether the threshold for establishing such absenteeism should not be set at a significantly high level. While conceding that a resettlement policy must be practical and cannot accommodate indefinite absenteeism, it was emphasized that any such determination must be based on strict and fair standards. He contended that, in the present case, even assuming that DDA followed due procedure, the implementation of the allotment policy remains in a state of flux, given the pendency of numerous writ petitions in which interim orders have been passed. In such a scenario, a direction to consider the petitioners for allotment would not disrupt or invalidate any finalised resettlement policy, nor would it cause any tangible prejudice to the respondent authority. In support of his submissions, Mr. Agarwala placed reliance on the decisions in **Chameli Singh v. State of U.P.**¹⁶, **Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan**¹⁷, **Gainda Ram v. Municipal Corporation of Delhi**¹⁸ and **Udal v. Delhi Urban Shelter Improvement Board**¹⁹.

LEGAL SUBMISSIONS ON BEHALF OF DDA

21. Mr. Sanjay Katyal & Ms. Kritika Gupta, learned Standing Counsels appearing on behalf of DDA, at the outset laid down the

¹⁵ 2010 SCC OnLine Del 612

¹⁶ 1996 2 SCC 549

¹⁷ 1997 11 SCC 121

¹⁸ 2010 10 SCC 715

¹⁹ 2017 SCC OnLine Del 9715



foundational facts underlying the present relocation and rehabilitation measures. It was submitted that the present exercise pertains to the removal of encroachments from Pocket A-1, A-2, and A-5 of Kalkaji Extension, New Delhi, comprising three Jhuggi Jhopri (JJ) Clusters, namely: Jawaharlal Camp, Navjeevan Camp, and Bhoomiheen Camp. It was stated that approximately 8,461 households were identified in these three JJ clusters, and pursuant to the surveys conducted, 1,862 households were found eligible for relocation. These eligible households have been shifted to EWS houses constructed by DDA at A-14, Kalkaji Extension, New Delhi. The allottees were provided these units upon payment of a nominal amount of Rs. 1,42,000/-, which includes Rs. 30,000/- towards maintenance charges for a period of five years, as part of the beneficiary's contribution. It was further submitted that the rehabilitation plan has been structured in the following three phases:

“Phase I: Relocation and rehabilitation of about 3000 number of jhuggi dwellers of Bhoominheen Camp in the erstwhile Community Centre site measuring 3.068 Ha swapped and shifted at the intersection of the two roads Guru Ravidas Road and Govinderpuri Road which is still under encroachment.

Phase II: The land under encroachment of Bhoomiheen camp In-situ slum to be vacated and utilized for rehabilitation of the eligible dwellers of the remaining JJ Clusters, namely Navejeevan Camp and Jawahar Camp on PPP mode

Phase III: Accommodation the remaining slum dwellers in Phase II development site and to carve out Neighbourhood Park from the site for Community Centre”

22. It was urged that unless and until the present petitioners, who were not found in the survey list, vacate the site, it would be practically impossible to proceed with the demolition of the JJ clusters



and thereby implement the long-pending rehabilitation process. The crux of the submissions advanced by Mr. Sanjay Katyal & Ms. Kritika Gupta, learned Standing Counsels for DDA, is that in terms of the Explanation to Section 10(1) as well as the two provisos to sub-section (3) of Section 10 of the DUSIB Act, the Central Government, being the LOA in the present case, acting through the DDA, is empowered to frame and implement an independent scheme for removal of jhuggi jhopri camps/bastis and the resettlement of their residents, without requiring the involvement of the DUSIB.

23. It was further pointed out that both the 2015 Policy and the 'Protocol-2015' were duly adopted by DDA in its Authority Meetings *vide* Resolution Nos. 33/2017 and 64/2018. Pursuant thereto, the Protocol for removal of jhuggis and JJ bastis located on DDA land was framed, as encapsulated in Annexure-IX to Resolution No. 64/2018. In accordance therewith, surveys were conducted at *Bhoomiheen* Camp by the outsourced agency, SPYM, which had deployed approximately 15–20 teams to collect the necessary data. The survey teams operated daily from around 10:00 a.m. to 6:00 p.m., in close coordination with the local *pardhaan* and JJ dwellers. It was submitted that notices dated 17.07.2019 were prominently affixed at multiple conspicuous locations within the cluster, such as public toilets, temples, and the boundary walls of local parks, informing all concerned that the survey would commence on 09.08.2019. Consequently, door-to-door surveys were undertaken between 09.08.2019 and 25.09.2019, without any interruption, demur, or protest from the residents.



24. It was further submitted that the data collected during the surveys was uploaded in real time on a mobile application by the employees and representatives of SPYM, and that extensive video recordings of the survey process were made in the presence of JJ dwellers. At the end of each survey day, SPYM submitted the day's collected data through the mobile app. In addition, officers of the respondent also downloaded the data daily and, by way of abundant caution, maintained hard copies of the survey records. It was submitted that, in continuation of the earlier process, another notice dated 03.10.2019 was also affixed at various conspicuous locations within the cluster, intimating the residents about those jhuggis that had been found locked during the initial survey. Consequently, a second round of survey commenced from 09.10.2019 and continued until the end of October 2019. Upon conclusion of the survey exercise, SPYM submitted comprehensive data covering a total of 2,618 households.

25. Mr. Sanjay Katyal & Ms. Kritika Gupta, learned Standing Counsels further submitted that following the completion of the survey, the second stage of the process was initiated, which involved inviting objections and claims with respect to the provisional survey list. In this regard, a public notice dated 31.08.2020 was issued, informing the residents that a facilitation camp would be set up at the DDA site office, located in close proximity to the JJ cluster, to enable aggrieved persons to file their claims or objections to the survey findings. Owing to the prevailing COVID-19 pandemic situation, the initial deadline was extended up to 30.09.2020, and a total of 447 claims/objections were received in response. As a third step in the



relocation process, an EDC was constituted, comprising officers of the rank of Deputy Director from the Land Management and Land Disposal Wing of DDA, to examine the received claims in accordance with the '2015 Policy' adopted by the DDA *vide* Resolution No. 64/2018. Based on the recommendations of the EDC, 282 additional jhuggi jhopri dwellers were found eligible for inclusion in the primary survey list. Consequently, with the approval of the Competent Authority, a consolidated list of 2,891 jhuggi jhopri dwellers was placed before the EDC for final determination of eligibility.

26. Mr. Katyal also brought to the attention of the Court that, during the relevant period, the Ministry of Home Affairs had issued the 'Unlock-4' Guidelines *vide* order dated 29.08.2020, which allowed free movement of persons and specifically did not declare the *Bhoomiheen Camp* as a containment zone. He further elaborated on the fourth step undertaken by DDA, which was to provide a final opportunity to the affected persons to rectify deficiencies in their documentation. In this regard, public notices were issued on 14.03.2022, informing the JJ dwellers that a facilitation camp would be organized from 21.03.2022 to 08.04.2022 at the DDA site office located at Kalkaji, near the JJ Cluster at *Bhoomiheen Camp*. The purpose of the camp was to enable applicants and claimants to submit any requisite documents necessary for consideration of their eligibility under the rehabilitation policy.

27. Lastly, Mr. Sanjay Katyal & Ms. Kritika Gupta, learned Standing Counsels submitted that between 21.05.2022 and 30.05.2023, the EDC scrutinized and examined a total of 2,891 cases.



Of these, 1,862 JJ dwellers were found to have fulfilled the eligibility criteria and were declared eligible for rehabilitation, whereas 1,029 were declared ineligible for not satisfying the requisite norms. It was further submitted that, in accordance with the procedure laid down under the extant guidelines, the JJ dwellers whose applications had been rejected were afforded the right to prefer an appeal before the Appellate Authority constituted by DDA. This Appellate Authority comprised a retired Additional District & Sessions Judge, a retired IAS officer of the rank of Joint Secretary, and an expert member. The Appellate Authority, from 04.12.2022 onwards, heard as many as 738 appeals and published lists of dwellers found eligible for rehabilitation on 17.02.2022, 17.06.2022, and 28.09.2022, while the list of ineligible dwellers was published on 07.11.2022.

28. It was contended that only upon completion of this extensive and rigorous procedural exercise, a public notice dated 05.04.2023 was affixed at various conspicuous locations within the cluster, informing all concerned that a demolition drive would commence after the expiry of 30 days. Accordingly, demolition at the site of Bhoomiheen Camp was carried out in a phased manner, commencing with Block-D from 03.06.2023 to 08.06.2023. The second phase of the demolition, covering Blocks A, B, and C, commenced from 05.07.2023. Mr. Sanjay Katyal & Ms. Kritika Gupta, learned Standing Counsels concluded by stating that 607 jhuggi jhopdi units have been identified as being protected under interim orders passed by this Court. In support of his submissions, reliance was placed upon the



decisions rendered in **Sudama Singh v. Government of Delhi** ²⁰; **Ajay Maken v. Union of India**²¹ and **Ram Bharose v. Delhi Urban Shelter Improvement Board**²².

PART B

ANALYSIS AND DECISION

29. I have bestowed my thoughtful consideration to the submissions advanced by the learned counsels for the parties at the Bar and I have meticulously gone through the record of the present matter and the case laws cited.

30. At the outset, although the instant batch of writ petitions raises substantial preliminary concerns, including those relating to maintainability as well as the adjudication of disputed questions of fact, this Court has elected to proceed to examine the core legal issues canvassed by learned counsel for the parties. For assessing the legality and propriety of the actions undertaken by DDA, it is necessary to briefly consider the scheme and intent of the DUSIB Act, which came into force on 13.05.2010. The DUSIB Act provides for the establishment of a statutory Board tasked with certain specified functions delineated under Chapter III of the enactment. The term '*jhuggi*' is defined under Section 2(f) of the DUSIB Act to mean any structure, whether temporary or permanent and irrespective of the materials used, possessing the following characteristics: -

- (i) it is built for the residential purpose;
- (ii) its location is not in conformity with the land use of Delhi Master

²⁰ 2010 SCC OnLine Del 612

²¹ 2019 SCC OnLine Del 7618

²² 2023 SCC OnLine Del 998



Plan;

(iii) it is not duly authorized by local authority having jurisdiction; (iv) it is included in the jhuggi Jhopdis basti declared as such by the Board, by a notification.

31. Section 2(g) of the DUSIB Act defines '*jhuggi jhopri basti*' in the following terms: -

“jhuggi jhopri basti” means any group of jhuggis which the Board may, by notification, declare as a jhuggi jhopri basti in accordance with the following factors, namely:-

- (i) the group of jhuggis is unfit for human habitation;
- (ii) it, by reason of dilapidation, overcrowding, faulty arrangement and design of such jhuggis, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, is detrimental to safety, health or hygiene; and
- (iii) it is inhabited at least by fifty households as existing on 31st March, 2002:

Provided that the Board may, by order, attach any jhuggi or jhuggis scattered in the nearby areas to any jhuggi jhopri basti and such jhuggi or jhuggis shall be deemed to be part of such jhuggi jhopri basti;

32. Chapter-II of the DUSIB Act outlines the constitution, composition, and service conditions of the Board and its members. However, for the purposes of the present case, the Court's focus is confined primarily to the provisions under Chapter III, which enumerate the statutory functions of the Board. It is therefore apposite to reproduce and examine the relevant provisions therein that bear upon the controversy at hand: -

“9. (1) The Board shall have the power to make a survey of any jhuggi jhopri bastis, with a view to ascertaining the number of residents thereof, the existing standard of health, sanitation and civic amenities, the availability of medical and educational facilities for the residents thereof, and any other matter which may appear necessary to it to enable it to perform its functions under



this Act.

(2) It shall be the duty of every local authority and of every department of the Government to make available to the Board all information in its possession relevant to the conduct of such survey.

Removal and resettlement of jhuggi jhopri bastis

10. (1) The Board shall have the power to prepare a scheme for the removal of any jhuggi jhopri basti and for resettlement of the residents thereof, and the consent of the residents of the jhuggi jhopri basti shall not be required for the preparation or implementation of such a scheme.

Explanation.- Nothing in sub-section (1) shall derogate the power of the Central Government to remove jhuggis, if required.

(2) Every such scheme shall specify the amount to be paid by the land owner and by the persons to be resettled towards the cost of new houses to be allotted to them and also the criteria for eligibility for resettlement.

Explanation: For the removal of doubts it is hereby clarified that owner of the land from where the basti is removed and the subsequent beneficiary-residents to be resettled shall contribute towards the cost of new houses to be allotted to them and the said amount of the contribution shall be specified in the scheme.

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

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

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

Scheme of improvement of jhuggi bastis

11. (1) The Board may prepare a scheme for the improvement of



any jhuggi jhopri basti which may include provision of toilets and bathing facilities, improvement of drainage, provision of water supply, street paving, and provision of dustbins, or sites for garbage collection, street lighting, or any of them, or provision of any like facilities:

Provided that no such scheme shall be prepared if the owner of the land on which the jhuggi jhopri basti is situated has already consented to the preparation of a scheme for the removal of the jhuggi jhopri basti under section 10 and has paid his share of the cost thereof.

(2) The Board may take all measures which may be necessary for the implementation of any scheme for improvement of a jhuggi jhopri basti prepared under sub-section (1) and it shall be the duty of the local authority, power generation and distribution companies or any licensee under the Electricity Act, 2003 (36 of 2003) having operations in the area, and any department or undertaking of the Government to render all reasonable assistance for the implementation thereof.

(3) A scheme prepared under sub-section (1) may include provision for payment or for contribution of labour by the residents of the jhuggi jhopri basti individually or collectively, and may also include provision for recovery of charges for the use of toilets and bathing facilities:

Provided that no such payment or contribution of labour, other than charges for use of toilet and bathing facilities, shall be levied unless the scheme has been published and the residents given an opportunity to make representations and suggestions regarding it in such manner as may be prescribed by regulations, and such representations or suggestions, if any, have been duly considered by the Board.

Scheme of redevelopment of jhuggi jhopri basti

12.(1) The Board may, with the consent of the owner of the land on which the jhuggi jhopri basti is situated, work out schemes for collective community rehabilitation, relocation or in-situ upgradation and involve private sector/slum cooperatives for redevelopment of the basti with a view to bringing about environmental improvement and improvement in the living conditions of the residents. Rehabilitation of the residents of the jhuggi jhopri bastis who would be affected by redevelopment shall form an integral part of the rehabilitation scheme.

(2) The consent of the residents of the jhuggi jhopri basti shall not be required for the preparation and implementation of any scheme for redevelopment of the basti under this section.



(3) The redevelopment scheme referred to in sub-section (1) may provide for construction and disposal by sale or lease of land for commercial, residential, institutional and light industrial use or any one or more of them as per the provisions of the Delhi Development Act, 1957 (61 of 1957) and those of the Master Plan for Delhi and Zonal Development Plans, etc. prepared thereunder.

(4) The Board may permit the owners on whose land a basti for which the scheme of re-development has been prepared under sub-section (1), to implement that scheme. Such scheme may not be executed by the Board itself.

33. A careful perusal of the aforesaid provisions reveals that DUSIB is vested with the authority to conduct surveys of *any jhuggi jhopri bastis* for the purposes enumerated therein. In matters relating to the removal and resettlement of Jhuggi Jhopdis, the Board is mandated to prepare a scheme for the removal of any such *Jhuggi Jhopdis Basti* and for resettlement of its residents. Importantly, the consent of the residents of the *jhuggi jhopri* cluster is not a prerequisite for such removal. To effectuate the removal, the Board may seek assistance from other agencies, including local authorities and the police. Furthermore, the Explanation appended to Section 10(1) operates as a proviso affirming the power of the Central Government to undertake the removal of *jhuggis* independently of the involvement of the DUSIB, if necessary. Correspondingly, the proviso to sub-Section (3) of Section 10 stipulates that where the *jhuggi jhopri basti* is situated on land belonging to the Central Government or any of its organizations, the process of removal and resettlement must be undertaken only with the prior consent of the Central Government or the relevant organization. The second proviso prohibits any settlement that contravenes the provisions of the Delhi Development Authority



Act as well as the Master Plan for Delhi and/or the Zonal Development Plan.

34. In this context, it is pertinent to note that the Central Government, addressing the challenges of a rapidly expanding urban population and increasing rural-urban migration, introduced a flagship housing initiative known as the **Pradhan Mantri Awas Yojana**²³. This programme was conceptualized to bridge the gap and achieve the ambitious goal of ‘housing for all’ by the year 2022. The PMAY is structured into two distinct components: (i) *Pradhan Mantri Awas Yojana (Urban)*, which is implemented by the Ministry of Housing and Urban Affairs, and (ii) *Pradhan Mantri Awas Yojana (Gramin)*²⁴, administered by the Ministry of Rural Development. The PMAY-U scheme was launched on 25.06.2015 with the objective of:

“The Mission seeks to address the affordable housing requirement in urban areas through following programme verticals:

- Slum rehabilitation of Slum Dwellers with participation of private developers using land as a resource
- Promotion of Affordable Housing through Credit Linked Subsidy
- Affordable Housing in Partnership with Public & Private sectors
- Subsidy for Beneficiary-Led individual house construction /enhancement
- The mission verticals, originally designed for the Economically Weaker Section (EWS) and Lower Income Group (LIG) segment, have been protracted to include the Middle Income Group (MIG) as well, thus magnifying the total net of beneficiaries.”

35. The flagship programme further empowered the States, Union Territories, and urban local bodies to take appropriate ground-level decisions to ensure the fair and time-bound clearance of projects

²³ PMAY

²⁴ PMAY-G



within their respective jurisdictions. It is evident that, in order to implement the said flagship programme in a mission mode, item No. 64/2019 was placed on the agenda for the Authority Meeting scheduled on 13.08.2019. The item sought permission to undertake surveys by engaging SPYM, and to proceed with the in-situ redevelopment and rehabilitation of JJ clusters in Delhi, including the *Bhoomiheen* Camp, Govindpuri. This envisaged the construction of 3,024 EWS flats at Pocket A-14, Kalkaji Extension, New Delhi, with observations that approximately 81% of the construction work had been completed and was likely to be finished by March 2020. The proposal included shifting the Jhuggi Jhopri clusters from Moti Lal Nehru Camp, Jawaharlal Nehru Camp, and Bhoomiheen Camp at Kalkaji Extension to the aforesaid flats after completion of the surveys. It is relevant to note that the cut-off date for determining the eligibility of Jhuggi Jhopri dwellers for resettlement was fixed as 01.01.2015, pursuant to a report submitted by the DUSIB, which was endorsed during the meeting, and the following decisions were taken:

“5. Earlier it was decided by the Hon'ble Lt. Governor, Delhi that survey of all the JJ clusters including DDA and Central Government lands will be carried out by DUSIB by hiring an 'Agency' for which DDA has given consent vide letter dated 09.04.2018 and a sum of Rs. 5,83,425/- as an advance payment was deposited with DUSIB on 04.09.2018 for carrying out the survey of the prioritized 23 JJ clusters. **However, survey work was not started by the DUSIB. DDA has now decided to carry out the survey on its own in respect of JJ clusters on DDA and Central Government lands by hiring an 'Agency'.** The agency namely M/s Society for Promotion of Youth Masses (SPYM) has been engaged to carry out the survey. Work has been awarded and the survey is likely to start from 1st week of July, 2019.

6. In the first phase, DDA has identified 14 JJ clusters in seven projects where the In-situ Slum Development will be



undertaken by the DDA as per the ‘Policy’ for In-situ Slum Rehabilitation/Redevelopment approved by the ‘Authority’ which is in consonance with the PMAY (U) guidelines. **The eligibility of the JJ dwellers of these clusters will be decided strictly as per the DUSIB Policy dated 11.12.2017. VC, DDA has directed to prepare the Detailed Project Reports (DPRs) of these JJ clusters, which are at various stages.”**

{Bold Portions Emphasized}

36. The aforesaid Item No. 64/2019 was eventually approved in the meeting of the Authority held on 13.08.2019. There is considerable merit in the plea advanced on behalf of the respondent/DDA that the DUSIB had no role assigned in conducting the survey or the in-situ rehabilitation process. Whatever practical or political considerations may have influenced this arrangement, the fundamental position remains that while the DUSIB is empowered under then DUSIB Act, to prepare schemes for the removal of *jhuggi jhopri bastis* and the resettlement of their residents in consultation with the Government, the proviso to Sub-Section (3) of Section 10 of the DUSIB Act clearly specifies that for *jhuggi jhopri bastis* situated on land belonging to the Central Government or its organizations, the process of removal and resettlement must be undertaken with the **prior consent** of the Central Government or the concerned

37. Thus, it is evident that there was no binding obligation on the part of the Central Government or its organizations to involve the DUSIB in the removal or resettlement of "*jhuggi jhopri bastis*" located on land owned by them. At this juncture, it would be apposite to refer to certain observations of this Court in the case of *Ajay Maken (supra)*, wherein a discourse took place on the interpretation of the explanation clause to sub-section (1) to section 10 of the



DUSIB Act, that is re-produced below: -

“143. Under the Explanation to Section 10(1), nothing in that sub section “shall derogate the power of the Central Government to remove *jhuggis*, if required.” Under the proviso to Section 10(3) of the DUSIB Act, where the *jhuggi jhopri basti* is on land belonging to the Central Government or any of its organisations, “a process of removal and resettlement shall be undertaken with the prior consent of the Central Government or its organisation concerned.” The second proviso to Section 10(3) of the DUSIB Act makes it mandatory that the resettlement should not be done in contravention of the DDA Act and of the MPD for the zonal development plan (ZDP) prepared the reunder.

144. A question that has arisen in the present case concerns the applicability of the DUSIB Act to the removal and resettlement of *jhuggi jhopri basti* located on land owned by the Central Government. Although, at the hearing on 12 October 2018 this was a question that arose for consideration before the Court, as the JJ cluster in the present case is located on land belonging to the Railways, the Central Government subsequently filed an affidavit accepting the 2015 policy prepared by the DUSIB under Section 11 of the DUSIB Act, **subject to the caveat that the power of the Central Government would nevertheless be simultaneous with that of the DUSIB.**

145. On account of the multiplicity of the agencies, which can be termed as ‘land owning agencies’, the question that arises is whether the DUSIB Act would apply in the instance of each such removal and resettlement of JJ bastis in the NCT of Delhi? The admitted position is that the slums managed earlier by the Slum and JJ Wing of the MCD, now stand transferred to the DUSIB. However, there are many more slums, some of them on lands belonging to the Central Government, which may not as yet be entrusted to the DUSIB. These could include JJ clusters/slums on Railway land as well.

146. It would be an anomaly if the safeguards and protocols laid down in *Sudama Singh (supra)* are made applicable only to slums managed by the DUSIB, but not to the other slums in the NCT of Delhi. It must be recalled that as far as land as a subject is concerned, it is outside the purview of the powers of the GNCTD. This stands clarified by the decision of the Constitution Bench of the Supreme Court in *Government of NCT Delhi v. Union of India* (2016) 14 SCC 353. Specific to the said issue the following observations of the Supreme Court are relevant:

“(xiv) The interpretative dissection of Article 239AA(3)(a) reveals that the Parliament has the power to make laws for



the National Capital Territory of Delhi with respect to any matters enumerated in the State List and the Concurrent List. At the same time, the Legislative Assembly of Delhi also has the power to make laws overall those subjects which figure in the Concurrent List and all, but three excluded subjects, in the State List.

(xv) A conjoint reading of clauses (3)(a) and (4) of Article 239A divulges that the executive power of the Government of NCTD is coextensive with the legislative power of the Delhi Legislative Assembly and, accordingly, the executive power of the Council of Ministers of Delhi spans over all subjects in the Concurrent List and all, but three excluded subjects, in the State List. However, if the Parliament makes law in respect of certain subjects falling in the State List or the Concurrent List, the executive action of the State must conform to the law made by the Parliament.

(xvi) As a natural corollary, the Union of India has exclusive executive power with respect to the NCT of Delhi relating to the three matters in the State List in respect of which the power of the Delhi Legislative Assembly has been excluded.”

147. The Lieutenant Governor of Delhi (LG) functions under the concerned, it is the Ministry of Urban Development (MoUD) in the Government of India which has the final call. Both the MCD and the DDA function under the administrative control of the MoUD. In other words, on issues of land the power vests in the Central Government and not with the GNCTD.

148. Inasmuch as the LG has notified, with the approval of the MoUD, the 2015 Policy, the Central Government should be taken to have accepted the 2015 Policy insofar as it concerns lands belonging to the Central Government. The 2015 Policy acknowledges the obligation as spelt out in *Sudama Singh* to make schemes for provide regular housing to *jhuggi* dwellers. It further acknowledges *Sudama Singh* as laying down that it is only in an extraordinary situation, where in-situ rehabilitation is not possible, that resort must be had to rehabilitation by relocation. The 2015 Policy also acknowledges the Supreme Court's decision in *Gainda Ram v. MCD* (2010) 10 SCC 715 that the poor who come to the city for work “must reside reasonably close to their place of work.” These basic legal requirements in the matter of dealing with *jhuggi jhopri* dwellers cannot be given a go-by the Central Government in relation to slums on land of the Central Government.



149. **This would be the position even if the Central Government were to take the position that in terms of the Explanation to Section 10(1) of the DUSIB Act and the first proviso to Section 10(3) of the DUSIB Act it will be up to the Central Government to proceed with the removal of the *jhuggis* if so required without DUSIB's consent.** In other words, even if the Central Government were to take the stand that the JJ *Bastis/clusters* on its land will not be covered under the 2015 Policy framed under Section 11 of the DUSIB Act, **the basic procedural protections and acknowledgment of the rights to adequate housing and against forced evictions therein, consistent with the legal requirements as spelt out in *Sudama Singh* would nevertheless continue to govern the removal and resettlement of such *jhuggis*.** For that matter, even as regards the Railways, which is but a Ministry of the Central Government itself, the position can be no different. The claim of the Railways that they can deal with the JJ *bastis/clusters and jhuggi* dwellers on land held by them in a manner contrary to the law laid down in *Sudama Singh* cannot, from a legal standpoint, be accepted. This is notwithstanding the stand taken by the Railways that in view of the specific provisions of the Railways Act they can proceed to unilaterally deal with the *jhuggi* dwellers or JJ clusters on Railway land by treating them as 'encroachers' unmindful of the constitutional and statutory obligations.

xxxx

179. A detailed procedure has been set out for conducting the joint survey receiving claims and objections which would be disposed of by a Claim and Objection Redressal Committee. The procedure for determination of the eligibility of the JJ dweller to rehabilitation has also been set out. There is to be an Eligibility Determination Committee (EDC) constituted by the CEO of DUSIB which will comprise the officers of DUSIB and representatives of the concerned ERO and AERO (Electoral Registration Officer and Assistant Electoral Registration Officer) as nominated by the District Election Officer (DEO).

180. A detailed programme is to be drawn up by the DUSIB including holding of a pre-camp at the site to facilitate filling up the requisite application form. A schedule is to be permanently displayed in the JJ *basti* mentioning the place and time to appear before the EDC along with the requisite documents. A finalised list of eligible and ineligible JJ dwellers is then to be submitted by the EDC to the CEODUSIB for approval. If a genuine case is left out, an Appellate Authority is to be provided for to whom such left out person may appeal.



181. Post survey, and after receiving the cost of rehabilitation from the Land Owning Agency (LOA), DUSIB, in the presence of representatives of eligible JJ dwellers, is to conduct a draw of flats to be allotted to the eligible JJ dwellers. After receipt of the beneficiary contribution and verification of possession, letters are to be issued and the JJ dwellers are to be given two months' time for shifting. Thereafter, steps are to be taken for removal with the assistance of the police. Para 7 of the Protocol sets out the steps for actual removal of the *jhuggis* after the above steps are complete. *Inter alia*, it talks of DUSIB facilitating “transportation of household articles/belongings of eligible JJ dwellers to the place of alternative accommodation, if necessary”.”

{BOLD PORTIONS EMPHASIZED}

38. In summary, the aforesaid decision unequivocally establishes the legal position that, pursuant to the explanation to Section 10(1), the plenary power of the Central Government to address the removal of *jhuggis* and their relocation or rehabilitation on land owned by it is preserved and is not in derogation of the powers of the Board. Simultaneously, it is categorically held that the safeguards and protocols laid down in **Sudama Singh (supra)** are applicable not only to slums managed by the DUSIB, i.e., the State Government, but also extend to other slums within the National Capital Territory of Delhi, which, by necessary implication, includes *jhuggi jhopri bastis* situated on land owned by the Central Government. It is therefore manifest that the broad safeguards and protocols as prescribed in the ‘2015 Policy’ and the ‘Protocol 2015’, which provide for fundamental procedural protections and recognition of the right to adequate housing post-eviction, continue to govern the removal and resettlement of such *jhuggis*, even in cases involving the Central Government.

APPROVAL FOR SURVEYS AND IN-SITU RELOCATION



AND REHABILITATION

39. In view of the legal position on the subject, it is expedient to examine the guidelines provided by the 'Protocol-2015'. A careful reading reveals that, after consultations with various stakeholders including both the State and Central Governments, the Protocol envisages the DUSIB as the Nodal Agency responsible for conducting comprehensive surveys and determining which *jhuggi jhopri bastis* are eligible for *in-situ* improvement, redevelopment, or resettlement and rehabilitation. It mandates the adoption of a uniform approach across all JJ bastis within the NCT of Delhi, in alignment with the provisions of the 2015 Policy. The Protocol-2015 outlines four distinct stages for the removal of JJ bastis, namely: (a) preventive steps; (b) procedure for conducting joint surveys; (c) procedure for eligibility determination; and (d) post-survey steps.

40. As regards pre-survey steps, the Protocol provides that a proposal for removal of JJ bastis may be initiated by the LOA and submitted to the DUSIB with appropriate justification, including details relating to the cost of rehabilitation. The cut-off date for eligibility was fixed for all JJ bastis that came into existence prior to 01.01.2006. Concerning the procedure for conducting the joint survey, the Protocol lays down the following provisions:

“(i) DUSIB shall paste a notice for conducting the survey, at least four weeks in advance, at conspicuous places in the JJ basti in order to inform the jhuggi dwellers about the joint survey to be conducted in the said basti. However, in exceptional circumstances, the above said notice period can be relaxed by CEO, DUSIB.



(ii) After the expiry of notice period, joint survey by a team(s) consisting of the representatives of DUSIB and LOA, will be conducted so as to ensure that no genuine JJ dweller is left out of the joint survey.

(iii) The survey team has to ensure that names of the JJ dwellers and their family members, who are actually residing in their jhuggis (whether they are occupying the jhuggis themselves or occupying the jhuggis on rental basis), are duly entered in the survey list.

(iv) The Joint survey teams will obtain information regarding age, gender, occupation, annual income, ration card, election I-card, and Aadhar Number etc. of each family member along with the photograph of the family in the, prescribed proforma. In case, Aadhar number of all members or its enrolment details are not available, bio-metrics of the concerned JJ dweller(s)/ family member(s) will be obtained at the time of Eligibility Determination.

(v) The entire survey process will be properly photographed so as to maintain record of the jhuggis as well as the JJ dwellers residing therein.

(vi) In case of locked houses, the joint survey team shall carry out another visit to cover these houses after a week's time.

(vii) After completion of the survey as above, a copy of the survey report will be kept/ displayed at the site for inspection/ information so as to invite claims and objections, if any, from the JJ dwellers. The claims/objections may be filed before a "Claim & Objection Redressal Committee" to be constituted by CEO, DUSIB, comprising of designated officers from DUSIB & LOA, within one week of display of the survey report

(viii) After receiving claims/ objections, the same will be disposed of by the **Claim & Objection Redressal Committee** in a time-bound manner by way of passing speaking order.

(ix) After disposal of all claims and objections, a final list of survey shall be prepared and kept in record of DUSIB. A copy of the same shall be forwarded to the LOA, and also pasted at a prominent location(s) of the JJ basti and at the designated office of DUSIB. A copy will also be hosted on the DUSIB website.

(x) In addition to the above prescribed procedure, if any genuine case(s)is/are still left out, then the Appellate Authority, to be constituted as per the provisions of the Policy, may consider the same as per individual merit of the case.”

41. Further, the Protocol-2015 prescribes the procedure for eligibility determination by constituting an EDC, comprising officers of DUSIB (preferably at the Deputy Director level), officers of the land-owning agency, and, if necessary, representatives of the



concerned ERO²⁵/AERO²⁶. The EDC is vested with the jurisdiction to determine the eligibility of the concerned JJ dwellers in accordance with the criteria laid down in the 2015 Policy. Likewise, the Protocol-2015 also sets out measures to be followed post-survey.

42. To cut the long story short, there is considerable merit in the plea advanced by the learned Standing Counsel for respondent No.2/DDA that the aforesaid protocols have been duly and scrupulously followed throughout the survey process. This adherence was ratified in the Authority meeting *vide* Item No. 64/2018, wherein the policy on *in-situ* slum redevelopment and rehabilitation on a 'PPP' mode in Delhi was approved. It was directed that the eligibility of beneficiaries covered under the policy would be strictly in accordance with the DUSIB policy dated 11.12.2017, including any subsequent amendments made by DUSIB. The following proposal was put forward for consideration and duly accepted: -

“i) To accord ex post facto approval for constitution of the Appellate Authority on the line of Delhi Slum Rehabilitation and Relocation Policy, 2015 (Part-A & B) and adoption of the Standard Operating Protocol for Appellate Authority w.e.f. 22.09.2017.

(ii) To accord approval for replacing the constitution of Appellate Authority in Annexure-VIII of Authority Resolution No. 33/2017 as under:

a) DDA will constitute an Appellate Authority for redressal of the grievances related to the determination of eligibility for allotment of alternative dwelling unit for rehabilitation and relocation of JJ dwellers. The Appellate Authority will consist of the following:

- i) Retired Judge of the level of Additional District Judge;
- ii) Retired civil servant of level of Joint Secretary to Government of India.

²⁵ Electoral Registration Officer

²⁶ Assistant Electoral Registration Officer



- iii) An expert member to be nominated by Vice Chairman, DDA, and
- iv) Deputy Director, DDA to be nominated by Vice Chairman, DDA as convener
- iii) To accord approval for exercising the powers of CEO, DUSIB in DUSIB Policy with regard to determination of eligibility of JJ dwellers and Standard Operating Protocol for Appellate Authority by VC, DDA for Kathputli Colony in-situ Development Project and **other in-situ development projects of DDA.**
- iv) To accord approval for not reopening the appeals already allowed/rejected by the Appellate Authority and accepted by the then Principal Commissioner (Housing/PMAY) and Commissioner (Pers./Housing).”

43. Evidently, the eligibility criteria for alternative dwelling units for relocation and rehabilitation of a JJ dwellers have been clearly defined. To qualify, a JJ dweller must be a citizen of India and at least 18 years of age. Additionally, the JJ bastis should have been in existence prior to 01.01.2006, while the cut-off date for continuous residence in the JJ cluster to become eligible for rehabilitation was set as 01.01.2015. During the Authority meeting held on 14.12.2018, the protocol for removal of Jhuggi and JJ Bastis on DDA land was discussed and the following provisions were laid down:

“6. STEPS TO BE FOLLOWED PRIOR TO REMOVAL OF JHUGGIES AND BASTIS

A. PRE-SURVEY STEPS:

- (i) The process of removal/re-settlement/rehabilitation/in-situ improvement/re-development of Jhuggis and JJ Bastis in Delhi will be governed by “*Slum & JJ Rehabilitation & Relocation Policy, 2017*”.
- (ii) The Land Owning Agency (LOA) will send a proposal for removal of the jhuggis and JJ Bastis to Law Management/Disposal Department with proper justification satisfying the conditions mentioned in the Policy sufficiently in advance.
- (iii) The proposal will be examined by Land Management/Disposal Department regarding the date of existence of JJ basti i.e. whether the same was in existence prior to



01.01.2006. If the JJ basti was in existence prior to 01.01.2006, then the proposal will be placed before the Authority for in-principle approval for removal of the Jhuggis and JJ basti.

(iv) After in principle approval of the Authority, the LM Department will conduct a survey and determine the eligibility of JJ dwellers for rehabilitation as per the policy along with the representative(s) of LOA. However, in special circumstances, the survey may be initiated even obtaining in-principle approval of the Authority, on case to case basis, with the approval of VC, DDA.

(v) If the LM Department ascertains that the JJ Basti came into existence after 01-01-2016, the LOA will be intimated accordingly to enable it to take necessary action for removal, in consonance with the law and rules in vogue.

A. Procedure for conducting the Joint Survey:

(i) LM Depat. DDA shall paste a notice for conducting the survey, at least four weeks in advance, at conspicuous places in the JJ basti in order to inform the jhuggi dwellers about the joint survey to be conducted in the said basti. However, in exceptional circumstances, the above said notice period can be relaxed by PC/LM-LD/CLM.

(ii) After the expiry of notice period, joint survey by a team(s) consisting of the representatives of DDA, will be conducted so as to ensure that no genuine JJ dweller is left out of the joint survey.

(iii) The survey team has to ensure that names of the JJ dwellers and their family members, who are actually residing in their jhiggis (whether they are occupying the jhiggis themselves or occupying the jhiggis on rental basis), are duly entered in the survey list.

(iv) The survey ...will obtain information regarding age, sender, occupation, annual income, ration card, election I-card and Aadhar Number etc. of each family member along with the photograph of the family in the prescribed proforma. In case, Aadhar numbers of all members or its enrollment details are not available, bio-metrics of the concerned JJ dwellers/family member(s) will be obtained at the time of Eligibility Determination.

(v) The entire survey process will be properly photographed so as to maintain record of the jhuggi as well as the JJ dwellers

(vi) In case of locked houses, the joint survey team shall carry out another visit to cover those houses after week's time.

(vii) After completion of the survey as above, a copy of the survey report will be kept/displayed at the site for inspection/ Information so as to invite claims and objections, if any, from that JJ dwellers. The claims/objections may be placed before Clam & Objection Redressal Committee to be constituted by PC/LM-LD/CLM,



comprising of designated officers from LM/LD Department, wil.....of display of the survey report.

(viii) After receiving claims/objections, the same will be disposed of by the Claim & Objection Redressal Committee in a time-bound manner by way of passing speaking order.

(ix) In addition to the above prescribed procedure, if any genuine case(s) is/are left out, the then Appellate Authority to be constituted as per the provisions of the Policy, may consider the same as per individual ...of the case.

B. Procedure for Eligibility determination

(i) PC/LM-LD/CLM, DDA will constitute three member Eligibility Determination Committee (EDC) comprising of officer of LM-LD/DDA (preferably Dy. Director Level), to determine the eligibility of the JJ dweller. PC/LM-LD/CLM may ... any suitable mechanism/procedure and/or modify/reconstitute the EDC, as per the exigencies of the work.

(ii) Thereafter, a detailed programme will be drawn by the LM Department, DDA including the holding of a pre-camp at the site to facilitate filling up the requisite application form along with the necessary documents to be submitted before the EDC. The schedule for holding eligibility determination will be intimated to the JJ Dwellers by pasting/displaying a notice in JJ basti, mentioning the place and time to appear before the EDC along with the requisite documents.

(iii) The EDC will determine the eligibility as per eligibility criteria given in the Policy, EDC will verify the documents submitted by the JJ dweller, carry out his bio-metric authentication by Aadhar Card/bio-metric, identification by other mechanism. The JJ dweller will also be required to give a self declaration regarding age, citizenship, family income, ownership of other house/property, Etc.

(iv) The EDC will finalize a list of eligible and in-eligible JJ dwellers which will be submitted to PC/LM-LD/CLM for approval. After approval, the list of eligible and in-eligible JJ dwellers will be displayed at the JJ Basti and at the notice board of designated office of DDA and shall also forwarded to Housing Department for holding draw and allotment of flat.

(v) if any genuine case(s) is/are still left out, then the Appellate Authority, to be constituted as per the provisions of the Policy, may consider the same as per Individual merit of the case.

C. POST SURVEY STEPS

(i) In the presence of representatives of eligible JJ dwellers Housing Department of DDA, shall conduct a draw of flats to be allotted to the eligible JJ dwellers. The LM Department will be intimated the date and time for holding the draw and it may depute its representative to be present at the time of draw.



- (ii) Alter holding the draw of lots, demand cum allotment letter will be issued to eligible JJ dwellers under the intimation of LM Department. They will be given two months time for shifting to respective flats.
- (iii) After receipt of beneficiary contribution and its verification thereof, possession letters of the flats will be issued by the Housing Department of DDA to be eligible JJ dwellers, under the intimation of LM Department. They will be given two months time, for shifting to respective flats.
- (iv) LM Department will fix the date of removal of the said JJ basti and send an appropriate intimation to the local police authorities for providing security and maintaining law and order.
- (v) The police authorities shall extend full cooperation, and adhere to the dates so fixed by DDA for removal of the JJ basti, as far as possible. If, due to some unavoidable circumstances, the police authorities request for postponement of the removal of the JJ basti, such postponement should not be more than once.
- (vi) In order to provide suitable facilities at the allotted site, DDA will make request to the concerned authorities, as under:
- (a) Directorate of Education, GNCTD/ MCD will be requested to make arrangement of admission of the wards of the jhuggi dwellers in the nearby schools.
- (b) Directorate of Health Services, GNCTD, will be requested to set up dispensary/ Mohalla Clinic in the vicinity of the flats, if not already available.
- (c) Request will be made to open Kendriya Bhandar/Co-operative store to cater to the basic daily needs of the jhuggi dwellers, if not available in the vicinity.
- (d) Delhi Transport Corporation (DTC) will be responsible to make arrangements of DTC buses.
- (e) Delhi Jal Board shall facilitate the availability of drinking water and sewage facilities in the flats to be allotted.

STEPS AND PRECUATIONS TO BE FOLLOWED DURING REMOVAL OF JHUGGIS AND JJ BASTIS.

- (i) DDA will prepare a schedule for removal of jhuggis and JJ Basti (physical shifting of JJ dwellers to the allotted flats)
- (ii) DDA shall paste(s) notice for eviction and removal of the JJ basti, under intimation to the DDA, Announcement (s) through Public Address System (PAS) will also be made at the site.
- (iii) All the JJ Dwellers, who have been issued the possession letters will be asked to demolish their respective jhuggis on the date and time fixed by LM, DDA. After demolition of the said jhuggis which will be photographed, demolition slips will be issued by LM, DDA and, on presentation of those demolition slips of the



site of alternative accommodation, possession of the flats will be handed over to them by DDA.

(iv) LM, DDA and LOA will work in close coordination with each other, at the time of removal of JJ basti to accomplish the task.

(v) if the jhuggi(s) is/are not demolished by the JJ dweller(s) himself/ themselves the same will be demolished and photographed/video graphed by DDA. Moreover, LM, DDA shall issue demolition slips indicating the fact that the jhuggi(s) has/have been physically demolished to those who had been issued possession letters.

(vi) DDA will facilitate transportation of household articles/belongings of eligible JJ dwellers to the place of alternative accommodation, if necessary.

(vii) After following the above process, the DDA will demolish the jhuggis/JJ Basti with the use of appropriate force, if required, with the help of police.

(viii) The demolition/shifting shall not be carried out during night, Annual Board Examination or during extreme weather conditions.

(ix) As far as practicable, DDA will provide potable water, sanitisation and basic health facilities at the site of demolition of the jhuggis.

STEPS TO BE FOLLOWED POST REMOVAL OF JHUGGIS AND JJ BASTIS.

(i) Those JJ dwellers who are not found eligible, as per the policy, will be advised to clear the land, if necessary, with the assistance of Police

(ii) After the removal/demolition of JJ basti, the vacant possession of the land will be handed over to the LandOwning Agency.

(iii) The removal of debris/mulba, etc., will be the responsibility of the LOA.

(iv) The vacant land, so handed over, shall, thereafter, be protected by the DDA.

For removal of any difficulties in giving effect to the provisions of the protocol, the board may modify any provisions, if required.

STEPS/MEASURES ADOPTED BY DDA

44. Thus, the measures implemented by DDA were fully in accordance with the guidelines set forth under the 2015 Policy. Consequently, the DDA's position that the October 2019 survey was



conducted in the presence of the Jhuggi occupants, was video-recorded, and utilized a mobile application to ensure accuracy, cannot be challenged in these proceedings. In adherence to the rehabilitation and relocation process, DDA carried out a survey of the *Bhoomiheen* Camp, Govindpuri, Kalkaji, New Delhi -110019. The SPYM was engaged as the agency responsible for surveying the designated JJ clusters. A notice dated 17.07.2019 was prominently displayed at multiple locations within the JJ cluster, informing that the survey would commence on 09.08.2019. Accordingly, a door-to-door survey was conducted from 09.08.2019 to approximately 25.09.2019 without any interruption. SPYM deployed around 15 to 20 teams for the survey, which generally operated daily from 10 a.m. to 6 p.m. Notably, the survey was conducted in close coordination with *the local Pradhan* and JJ dwellers.

45. The record further shows that the survey yielded data for 2,618 households. Subsequently, notices inviting claims and objections were posted at various prominent locations within the Jhuggi Jhopri bastis along with the survey list. It is also evident from the record that a facilitation camp was established at the DDA site office starting from 31.08.2020. Additionally, notices were displayed regarding individuals whose names were missing from the survey list or who had discrepancies in their documents, calling upon them to file their objections or claims within seven days of the notice being posted. It is uncontested that, in view of the challenges posed by the COVID-19 pandemic and the large volume of applications received, the deadline for submitting claims or objections was extended until 30.09.2020. In



response to this extension, a total of 447 claims and objections were received.

46. It is further brought to the fore that the claims submitted in response to the notice were examined by the EDC constituted by the DDA. The EDC was a three-member committee comprising senior officers from the DDA. The committee's mandate was to assess and determine the eligibility of the Jhuggi Jhopri dwellers of *Bhoomiheen* Camp, Govindpuri Extension, Kalkaji, in accordance with the guidelines outlined in the 2015 Policy, which was adopted by the DDA through Resolution No. 64/2018. The EDC scrutinized the documents submitted by the JJ dwellers in response to the various opportunities provided to them. Based on this evaluation, the committee prepared lists of eligible claimants.

47. Moreover, during the eligibility determination process, the EDC observed deficiencies in the documents submitted by several applicants as per the policy guidelines. Consequently, deficiency letters were issued to the concerned applicants in early 2022, requesting submission of the required documents. Public notices were also issued on 14.03.2022, announcing a camp from 21.03.2022 to 08.04.2022 at the DDA site office near the *Bhoomiheen* Camp, providing claimants with another opportunity to submit the requisite documents. Despite these measures, many applicants failed to comply. Of the 447 claims reviewed, the EDC recommended inclusion of 282 claims in the main survey list, noting that their names had been omitted in the survey data despite being marked during the survey. Upon verification and approval by the Competent Authority, a final



list of 2,891 JJ dwellers was prepared and submitted to the EDC for eligibility determination.

48. It is also a matter of record that from 21.05.2022, the EDC examined and scrutinized a total of 2,891 cases. Of these, 1,862 applicants were declared eligible, while 1,029 JJ dwellers were found ineligible for rehabilitation, as they did not fulfil the prescribed criteria. The ineligible applicants were granted the opportunity to file appeals before the Appellate Authority constituted by the DDA in accordance with the policy guidelines. Finally, the Appellate Authority was duly established to address grievances related to eligibility for allotment of alternative dwelling units, as per the law.

CONCLUSIONS:

49. In light of the foregoing discussion, it is clear that DDA, has substantially adhered to all prescribed procedures in conducting the survey of the JJ clusters in question. The survey constitutes a foundational step in the rehabilitation process, essential for identifying actual residents and the specific jhuggis against which claims are made. Notably, the jhuggis do not have structured numbering assigned by civic authorities, but rather bear arbitrary, self-assigned numbers by occupants, resulting in a disorganized layout. This circumstance makes locating any specific jhuggi by number inherently challenging. This Court finds merit in the plea of DDA that the petitioners' allegation of an improper survey process lacks any basis and goes beyond the pleadings in the instant writ petitions.

50. Notwithstanding repetition, the DDA has clearly demonstrated that the survey was conducted between August and October 2019,



well before the onset of the COVID-19 pandemic. The petitioners have failed to provide any explanation for their absence from the cluster during the survey period or for their failure to approach the Claims and Objections Redressal Committee between 31.08.2020 and 30.09.2020, to seek inclusion in the survey list. Given their absence during the survey and the extended period thereafter, the petitioners are estopped from challenging the survey process. Moreover, the petitioners have not justified their failure to avail themselves of the available remedies since October 2019. It is evident that most petitions were filed only after the demolition notice was published on April 5, 2023, and even after demolition commenced in June 2023.

51. As per DDA, over Rs. 835.88 crore has been expended in the process of *in-situ* rehabilitation of the JJ dwellers of *Bhoomiheen* Camp. It cannot be overlooked that the rehabilitation process is time-sensitive, and any further extension of timelines would result in additional expenditure of valuable public funds and delay the rehabilitation of other clusters and JJ dwellers. As established on record, the rehabilitation process commenced in August 2019, encompassing the survey, data collation, invitation of claims, examination of cases by the EDC, disposal of appeals by the Appellate Authority, and ultimately, allotment of flats to eligible JJ dwellers. Thus, a comprehensive and complex process spanning nearly four years has reached its conclusion. In light of this, the petitioners have failed to demonstrate any cogent or justifiable grounds before this Court to warrant reopening the completed rehabilitation exercise or to undo the substantial progress made during this period.



52. There is no gainsaying that the petitioners have no vested right to seek rehabilitation, as it is not an absolute constitutional entitlement available to encroachers such as themselves. The right to rehabilitation arises solely from the prevailing policy, which binds the petitioners. The determination of eligibility for rehabilitation is a separate process from the removal of encroachers from public land. Encroachers cannot claim a right to continue occupying public land pending the resolution of their rehabilitation claims under the applicable policy, as such a position would unduly impede public projects.

53. At this juncture, it is pertinent to refer to the decision of the Division Bench in the case of **Ram Bharose v. Delhi Urban Shelter Improvement Board**²⁷, wherein the petitioner challenged the findings recorded by the joint surveys conducted by DUSIB and the LOA, which resulted in the dismissal of their representation for allotment of alternative accommodation. The facts reveal that the petitioner and his wife were unable to produce their Aadhaar Cards before the Joint Survey Committee members and, accordingly, challenged the policy mandating that the name of the jhuggi jhopri dweller must appear in the survey conducted by DUSIB and the LOA. This Court dismissed the challenge outrightly, observing as follows: -

“15. Requirements have been enumerated in the Policy to ensure that only persons who are entitled to rehabilitation are given the benefits of the Policy. As rightly pointed out in the Counter Affidavit, it is not uncommon that many persons who stay in JJ Clusters shift to other Clusters in search of better opportunities or because they have found employment elsewhere and even after shifting they continue to retain the documents, which were issued to them on the previous address. Such a person, who shifts from his

²⁷ 2023 SCC OnLine Del 998



original place, cannot be held to be entitled to rehabilitation. The documents alone, therefore, cannot be the sole criteria for making such a person eligible for rehabilitation under the Policy. Other than citing judgments, the Petitioner has not been able to substantiate as to how Clause 1(iv) of Part B of the Policy is violative of Article 14 & 21 of the Constitution of India. Merely relying on certain citations alone is not sufficient to demonstrate that the said Clause is violative of Articles 14 & 21 of the Constitution of India. The said Clause has been brought in to ensure that only genuine persons get the benefit of the Policy and it cannot be found faulted.”

54. Insofar as the case law cited by the learned counsels for the petitioners is concerned, in **Chameli Singh v. State of U.P**²⁸, the Supreme Court observed that all civil, political, social, or cultural rights enshrined in the Universal Declaration of Human rights, various conventions, or under the Constitution of India cannot be effectively exercised without certain basic human rights, which include shelter. Shelter is essential for the physical, mental, intellectual, and spiritual growth of a human being. Accordingly, the right to shelter encompasses adequate living space, safe and decent structures, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities and roads etc. so as to have easy access to his daily avocation. The decision was rendered in the backdrop of acquisition of land for larger public purpose under the Land Acquisition Act. It was observed that every acquisition by its compulsory nature for public purpose entails depriving the owner of his land and means of livelihood. It was held *that so long as the exercise of power is for public purpose, the individual's right of an owner must yield place to the larger public purpose.*

²⁸ AIR 1996 SC 1051



55. The decision in **M/s Shantistar Builders v. Narayan Khimalal Totame**²⁹ was rendered in the context of the Urban Land (Ceiling and Regulation) Act, 1976. In that case, the Supreme Court emphasized that the genuineness of the respondents’ claims must be scrutinized in accordance with well-established guidelines, and where such claims are found tenable, the builders must be directed to provide accommodation in terms of the scheme for those deemed eligible. As a working guideline, the Court introduced the concept of a “means test” to identify members of the weaker sections of society, based on the present income of the affected families and by quantifying income thresholds, among other considerations. However, it is significant to note that the principles laid down in that decision are inapplicable to the present matters, which are governed by an entirely different statutory and policy framework.

56. In **Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan** (*supra*), the Supreme Court addressed the issue of eviction of unauthorized encroachers from public land, specifically in relation to pavement dwellers. It was held that where encroachers have been in occupation for a considerable period, the principles of natural justice necessitate providing reasonable notice, typically two weeks or ten days prior to eviction—to satisfy procedural fairness. However, the Supreme Court also clarified that in all cases of eviction of encroachers, **the State or its instrumentalities are not under a mandatory obligation to provide alternative accommodation. Importantly, the Supreme Court refrained from laying down an**

²⁹ AIR 1990 SC 630



absolute rule, observing instead that whether alternative accommodation should be provided would depend on the facts and circumstances of each individual case.

57. The decision of the Division Bench of this Court in *Sudama Singh v. Government of Delhi (supra)* was rendered in the context of rehabilitation and improvement scheme for *jhuggi* clusters that came into effect from 01.04.2000, with a cut-off date of 30.11.1998 for determining eligibility. This Court, while interpreting the scheme in light of the provisions of the Constitution and relevant international human rights conventions, arrived at the following conclusions:

“It is declared that:

- (i) The decision of the respondents holding that the petitioners are on the "Right of Way" and are, therefore, not entitled to relocation, is hereby declared as illegal and unconstitutional.
- (ii) In terms of the extant policy for relocation of Jhuggi dwellers, which is operational in view of the orders of the Supreme Court, the cases of the petitioners will be considered for relocation.
- (iii) Within a period of four months from today, each of those eligible among the petitioners, in terms of the above relocation policy, will be granted an alternative site as per MPD-2021 subject to proof of residence prior to cut-off date. This will happen in consultation with each of them in a "meaningful" manner, as indicated in this judgment.
- (iv) The State agencies will ensure that basic civic amenities, consistent with the rights to life and dignity of each of the citizens in the Jhuggis, are available at the site of relocation.”

58. In *Gainda Ram v. Municipal Corporation of Delhi (supra)*, the Supreme Court examined the fundamental rights of hawkers and street vendors under Article 19(1)(g) and Article 21 of the Constitution. The Court emphasized that while the right to carry on any occupation or



trade is protected under Article 19(1)(g), such a right is not absolute and is subject to reasonable restrictions under Article 19(6). The Court further underscored the urgent need for a statutory framework to regulate street vending and directed the timely enactment of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2009. It was recognized that though street vendors and hawkers have a right to livelihood and trade on public streets, such rights must be balanced with the need for regulation in public interest, particularly in urban planning and traffic management.

59. In light of the foregoing discussion, it becomes evident that the interim injunctions obtained by the petitioners have not only hindered the timely execution of the rehabilitation project but have also resulted in a significant escalation of public expenditure, thereby causing financial strain on the State. Even assuming, *arguendo*, that the petitioners may have plausible grounds to assert a legal right to rehabilitation, a favourable adjudication would at best extend the scope of eligible beneficiaries under the prevailing rehabilitation policy. However, such a contention cannot translate into a right to indefinitely occupy public land or retain possession of their respective *jhuggi jhopri* dwellings, especially when the removal is in furtherance of a larger public interest and in accordance with due process.

MAINTAINABILITY OF THE PETITIONS

60. The foregoing discussion leads to the issue concerning the maintainability of the present writ petitions on the ground of misjoinder of parties, as has been vehemently argued by the learned Standing Counsel for DDA. It has been rightly contended that the



conjoint filing of the petitions by multiple petitioners has resulted in vague and imprecise pleadings, lacking specificity and failing to disclose uniform or common factual foundations. Each petitioner's claim rests on individual facts, circumstances, and documentation, which are neither adequately pleaded nor supported by necessary evidence. In such a scenario, it would be appropriate and legally sound to examine the merits of each petition individually, rather than collectively, so as to ascertain the entitlement of the respective petitioners on a case-by-case basis.

W.P.(C) 6312/2023

61. As previously noted, a total of 34 petitioners have jointly instituted the present writ petition. The grievance articulated by the petitioners primarily revolves around their alleged arbitrary exclusion from the survey conducted by DDA. Their principal contention is that no prior notice or intimation was provided to them regarding the conduct of the survey, as a result of which they remained unaware of the exercise. It is further claimed that several of them were either away at their workplaces or had travelled to their native villages during the relevant period. Additionally, it has been averred that certain petitioners did make subsequent attempts to approach the EDC and the Appellate Authority by submitting the requisite documents; however, their representations were allegedly not considered or entertained.

62. It is evident that each petitioner in the present writ petition has sought to justify their exclusion from the survey process by citing individual circumstances for their unavailability. However, the



explanations offered are vague and lack sufficient substantiation. More importantly, each petitioner raises a distinct and separate cause of action based on different factual matrices. The conjoint filing of such disparate claims, without establishing a commonality of facts or legal grounds, renders it impracticable for this Court to effectively adjudicate upon the individual claims of each petitioner in a consolidated manner.

63. At this juncture, it is pertinent to note that the law is well-settled that where the adjudication of disputed questions of fact is required, the exercise of writ jurisdiction under Article 226 of the Constitution of India, 1950, is not appropriate. Reference may be made to the decision of the **Supreme Court in Chairman, GRID Corporation of Orissa Ltd. (GRIDCO) v. Smt. Sukamani Das**³⁰, wherein a writ petition seeking compensation for the electrocution death of the petitioner's husband was entertained by the High Court. The Supreme Court disapproved of such adjudication in writ jurisdiction, noting that the matter involved disputed questions of fact, including the cause of snapping of a live wire, which were better suited for resolution through a civil suit. Similarly, in **Harpati v. State of NCT of Delhi**³¹, the Supreme Court reiterated the principle that the existence of contentious factual disputes militates against the maintainability of a writ petition, especially when alternative remedies or appropriate forums for fact-finding are available, and it was held as follows: -

“18. The aforesaid judgment has been relied/reiterated by the Apex Court in *S.P.S. Rathore v. State of Haryana*, (2005) 10 SCC

³⁰ (1999) 7 SCC 298

³¹ 2023 SCC OnLine Del 4607



1 wherein it observed as follows:

*“16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. **The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper. The Court carved out exception to this general rule by observing that, it should not be understood that in every case of tortious liability, recourse must be had to a suit. When there is negligence on the face of it and infringement of Article 21 is there, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution.”***

(emphasis supplied)

19. Similarly, the Hon'ble Supreme Court in *Shubhas Jain v. Rajeshwari Shivam*, 2021 SCC OnLine SC 562 has held as under:

“26. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable.”

20. Subsequently, in *Union of India v. Puna Hinda*, (2021) 10 SCC 690, the Hon'ble Supreme Court has observed:

“24. Therefore, the dispute could not be raised by way of a writ petition on the disputed questions of fact. Though, the jurisdiction of the High Court is wide but in respect of pure contractual matters in the field of private law, having



no statutory flavour, are better adjudicated upon by the forum agreed to by the parties. The dispute as to whether the amount is payable or not and/or how much amount is payable are disputed questions of facts. There is no admission on the part of the appellants to infer that the amount stands crystallised. Therefore, in the absence of any acceptance of joint survey report by the competent authority, no right would accrue to the writ petitioner only because measurements cannot be undertaken after passage of time. Maybe, the resurvey cannot take place but the measurement books of the work executed from time to time would form a reasonable basis for assessing the amount due and payable to the writ petitioner, but such process could be undertaken only by the agreed forum i.e. arbitration and not by the writ court as it does not have the expertise in respect of measurements or construction of roads.”

21. Recently, the Hon'ble Supreme Court in the case of *M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India (P) Ltd.*, (2023) 2 SCC 703, while dealing with the issue of exercise of writ jurisdiction by a Court in matters arising out of a contract, has stated:

“82.7. The existence of an alternate remedy, is, undoubtedly, a matter to be borne in mind in declining relief in a writ petition in a contractual matter. Again, the question as to whether the writ petitioner must be told off the gates, would depend upon the nature of the claim and relief sought by the petitioner, the questions, which would have to be decided, and, most importantly, whether there are disputed questions of fact, resolution of which is necessary, as an indispensable prelude to the grant of the relief sought. Undoubtedly, while there is no prohibition, in the writ court even deciding disputed questions of fact, particularly when the dispute surrounds demystifying of documents only, the Court may relegate the party to the remedy by way of a civil suit.”

(emphasis supplied)

64. In **Municipal Corporation, Aurangabad v. State of Maharashtra**³², the Supreme Court deprecated the interference by the High Court in a matter involving disputed questions of title while

³² (2015) 16 SCC 689



exercising jurisdiction under Article 226 of the Constitution. The High Court had reversed concurrent findings of fact recorded by competent authorities, which had held the appellant corporation to be the owner of the disputed land, and proceeded to decide the issue of mutation. The Supreme Court set aside the High Court's decision, holding that the question of title, being a complex factual matter, ought to be determined by an appropriate forum in accordance with law. It was categorically held that such disputes are not amenable to writ jurisdiction and must be adjudicated in a properly instituted civil proceeding.

65. Reverting back to the instant matter, the lone petitioners in W.P.(C) 7832/2023, 169/2024 and 357/2024 assail the survey conducted by the DDA through SPYM. While in W.P.(C) 7832/2023, the petitioner claims that he was unaware of any survey as he was always at work or had gone to native village, the remaining two petitioners claim that they had been suffering from life threatening diseases and either been taking medical treatment or had returned to their native village.

66. Interestingly, in W.P.(C) 12348/2023, the petitioners, Ram Dev Rai and Dhirender Rai, who claim to be residents of Block-A, Jhuggi Nos. A-159 and A-158 respectively, have contended that their names appeared in the survey lists of 2019 and 2022, yet they have not been rehabilitated to date. In response, DDA has submitted that the mother-in-law of petitioner Ram Dev Rai had already been allotted an alternative flat, a material fact which has been deliberately concealed in the pleadings. Additionally, it has been pointed out that petitioner



6312/2023, W.P.(C) 7832/2023, W.P.(C) 8070/2023, W.P.(C) 15906/2023, W.P.(C) 169/2024, W.P.(C) 8569/2023, W.P.(C) 2277/2024 and W.P.(C) 357/2024 are hereby dismissed. Accordingly, all pending applications stands dismissed.

DHARMESH SHARMA, J.

MAY 26, 2025

SP/Sadiq/pkv/ch

ANNEXURE- 'A'

S.NO	W.P.(C)	Petitioner no. & name
1.	12348/2023	Petitioner no.1- Ram Dev Rai, S/o: Late Sh. Bulaki Rai, R/o: A-159, Bhoomiheen Camp, Govindpuri, Delhi-110019 Petitioner no.2- Dhirender Rai, S/o: Sh Rambabu Rai, A-158, Bhoomiheen Camp, Govindpuri, Delhi-110019
2.	12981/2023	Petitioner- Prem Bala, W/o Shri Khagen Burman, R/o C-152 Bhoomiheen Camp, Govindpuri, Delhi-110019
3.	6312/2023	Petitioner no. 1- Govinda, S/o Verender Datta, R/o C-8 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 2- Hiramati Sarkar, W/o Sapon Sarkar, R/o B-119 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 3- Shakuntla, W/o Om Prakash, R/o D-207 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 4- Manju Devi, W/o Nand Lal, R/o B-347 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 5- Farzana Khatoon, W/o Mohd. Azeez, R/o A-23, G/F Bhoomiheen Camp, Kalkaji South Delhi- 110019



	<p>Petitioner no. 6- Mala Matubar, W/o Sanjith Matubar, R/o A-379 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 7- Sunali Barman, W/o Mintu Barman, R/o A-287 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 8- Geeta, W/o Uday Shankar, R/o C-188 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 9- Devashish Saha, S/o Sushanto Saha, R/o A-261 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 10- Suresh, S/o Sohan Lal, R/o B-64 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 11- Ashok, S/o Sohan Lal, R/o B-64 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 12- Aarti Das, W/o Jateen Das, R/o A-257 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 13- Sunita Burman, W/o Babloo Burman, R/o C-321 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 14- Chandni, W/o Anil Kumar, R/o D-207 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 15- Giribala Das, W/o Sanyasi Das, R/o C-551 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 16- Shobha Devi, W/o Rajesh Kumar, R/o D-34 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 17- Sanjay Patro, S/o Badal Patro, R/o C-6 Bhoomiheen Camp, Kalkaji South Delhi- 110019</p> <p>Petitioner no. 18- Sirballam, S/o Prem Singh, R/o B-33 Bhoomiheen Camp, Kalkaji South</p>
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	<p>Delhi- 110019 Petitioner no. 19- Satya Prakash, S/o Ganesh Prasad, R/o B-87 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 20- Subroto Haldar, S/o Deepak Haldar, R/o C-13 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 21- Arjun Kumar Srivastava, S/o Ganesh Prasad, R/o B-87 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 22- Rajeev Haldar, S/o Deepak Haldar, R/o C-13 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 23- Amit Kumar Gautam, S/o Harish Chand, R/o C-214 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 24- Ashad Khan, S/o Late Riyasat Khan, R/o B-328 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 25- Arun Kumar, S/o Ajit Singh, R/o A-22 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 26- Naru Burman, S/o Subal Burman, R/o D-25 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 27- Nakul Burman, S/o Subal Burman, R/o D-25 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 28- Munna, S/o Uday Shankar, R/o C-188 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 29- Mukesh Babu Yadav, S/o Shatrughan Yadav, R/o C-520 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 30- Aman Singh, S/o Rameshwar Singh, R/o C-68 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 31- Kuldeep Singh, S/o</p>
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		Rameshwar Singh, R/o C-68 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 32- Arshad Khan, S/o Late Riyasat Khan, R/o B-328 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 33- Sanjana, W/o Late Shyam Lal, R/o C-663 Bhoomiheen Camp, Kalkaji South Delhi- 110019 Petitioner no. 34- Raja Ram, S/o Lash Ram, R/o A-117 Bhoomiheen Camp, Kalkaji South Delhi- 110019
4.	7832/2023	Petitioner No.1 – Manjoor Ali S/o Allauddin R/o B-75, Bhoomiheen Camp, Kalkaji, South Delhi – 110019
5.	8070/2023	Petitioner No.1 – Janmenjay Samanta S/o Shri Jawahar Lal Samanta R/o D-113, Bhoomiheen Camp, Govind Puri Extension, Kalkaji, New Delhi – 110019 Petitioner No.2 – Anima Samanta D/o Bibhuti Haider, R/o D-113, Bhoomiheen Camp, Govind Puri Extension, Kalkaji, New Delhi – 110019
6.	15906/2023	Petitioner- Kanan Biswas, W/o Kankan Biswas, R/o B-480 Bhoomiheen Camp, Govind Puri, Kalkaji, Delhi - 110019
7.	169/2024	Petitioner- Anwar Khan, S/o Mr Sajid Khan, R/o C-903 A, Bhoomiheen Camp, Govind Puri, Kalkaji, Delhi - 110019
8.	357/2024	Petitioner- Bidhan Biswas. S/o Late Mr. Subol Biswas, R/o C-403/B Bhoomiheen Camp, Govind Puri, Kalkaji, Delhi - 110019
9.	8569/2023	Petitioner No. 1 - Baijnath, S/o Sh. Ram Dhani, R/o A-14, Bhoomiheen Camp, Near DDA Flat, Kalkaji, New Delhi - 110019
10.	2277/2024	Petitioner- Ajay Kumar, S/o Naresh Chand Gupta, R/o A-244, Bhoomiheen Camp, Kalkaji, New Delhi-110019