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

+ **W.P.(C) 8566/2023**

SHRI NIRNAJAN KANDAR Petitioner

Through: Mr. Nishant Kumar & Ms. Nisha
Rawat, Advs.

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

Through: Ms. Shobhna Takiar, Standing
Counsel with Mr. Kuljeet Singh, Adv.
for R-1.

Mr. Parvinder Chauhan, Standing
Counsel with Ms. Mahima Anand,
Adv. for R-5.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

23.06.2023

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[Physical Hearing/Hybrid Hearing (as per request)]

1. By way of the present Petition, the Petitioners are *inter-alia* seeking a direction from the Respondent No. 1/DDA to set aside the order dated 22.03.2023 issued by the Appellate Authority appointed by Respondent No.1/DDA.

1.1 It is contended by the Petitioners that the orders were passed without conducting any independent hearing of their individual Appeals.

2. The Petition has been filed by Petitioner who is a jhuggi dweller, resident of Bhoomiheen Camp at Kalkaji, New Delhi. The grievance of the Petitioner is that he was informed verbally on 12.06.2023 that the jhuggis in which he is residing may be demolished.

3. The Petitioners rely on the Delhi Slum and JJ Rehabilitation and

W.P.(C) 8566/2023

page 1 of 4

Relocation Policy, 2015 [hereinafter referred to as "2015 Policy"] of Respondent No. 1 to submit that he must be properly rehabilitated by the Respondents prior to any demolition.

4. The Petitioner is aggrieved by the actions of the Eligibility Determination Committee [hereinafter referred to as "EDC"] set up by Respondent No.1/DDA. The EDC had on 07.11.2022 released a list of candidates who were declared as ineligible for allotment of an alternate dwelling/accommodation under the 2015 Policy, which included the name of the Petitioner.

5. Subsequently, the Petitioner received letter informing him of his ineligibility *inter-alia* on account of non-availability of identity related documents even after all relevant documents were produced.

5.1 Reliance in this regard is made to Clause 2 of the 2015 Policy, wherein it is stated that jhuggi jhopri dwellers must possess one of the following 12 documents, which is mentioned in Clause 2 of Part B of the 2015 Policy:-

“....2. As envisaged in Para 1 (vi) above, the JJ dweller must possess any one of the following documents issued before 01.01.2015 to become eligible for the purpose of allotment of Dwelling Unit :

- (i). Passport*
- (ii). Ration Card with photograph*
- (iii). Electricity Bill*
- (iv). Driving License*
- (v). Identity Card / Smart Card with photograph issued by State/Central Government and / or its Autonomous Bodies/Agencies like PSU/Local Bodies (Except EPIC).*
- (vi). Passbook issued by Public Sector Banks/Post Office with photograph.*
- (vii). SC/ST/OBC Certificate issued by Competent Authority.*
- (viii). Pension document with photograph such as Ex-serviceman's Pension Book, Pension Payment Order, Ex-Serviceman widow/dependent certificate, old age pension order or widow pension order.*
- (ix). Freedom Fighter Identity Card with passport.*

(x). *Certificate of physically handicapped with photograph issued by the Competent Authority.*

(xi). *Health Insurance Scheme Smart card with photograph (Ministry of Labour Scheme).*

(xii). *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.”*

5.2 Learned Counsel for the Petitioner contends that the Petitioner has one or more of the requisite identity documents and provided the details of his identity documents in Paragraph 2 (iv) of the present Petition. However, despite the same, their representations have been rejected by the Appellate Authority.

6. It is the further contention of the Petitioner that his ineligibility is based on the fact that he was unable to produce a ration card. However, Counsel for the Petitioner further contends that despite applying for the same several years ago, no ration card has been issued to them.

6.1 The Petitioner rely on an Order of a coordinate bench dated 05.08.2022 in W.P.(C) 11633/2022, to submit that at present no ‘ration cards’ are being issued by the Government of NCT, Delhi.

7. Learned Counsel further submits that if in the meantime, Respondent No.1/DDA is allowed to continue with its demolition, this Petition will become infructuous and irreparable harm and injury will be caused to the Petitioner. Mr. Nishant Kumar submits that in the interregnum, this Court may stay action of the Respondents of sealing and evicting the Petitioner from his home and/or demolition.

8. Learned Counsel appearing on behalf of Respondent No.1/DDA, on

advance Notice controverts the contention of the learned Counsel for the Petitioner. In this regard, he draws the attention of the Court to the orders passed by the Appellate Authority to submit that these orders have been passed by the Appellate Authority after giving due and adequate consideration to the 2015 Policy as well as the documents placed on record by the Petitioner, who are before this Court.

8.1 Learned Counsel appearing on behalf of the Respondents submit that the Appellate Authority has passed its order in accordance with the 2015 Policy and as per law.

9. The matter requires further examination.

10. Issue Notice.

11. Learned Counsel for the Respondents may file their Counter-Affidavits / Short Affidavits within two weeks.

11.1 Rejoinder thereto, if any, will be filed within three days thereafter.

12. List the matter before the concerned Registrar for completion of pleadings on 12.07.2023.

13. List the matter before the Court on 08.08.2023 at 3:30 PM..

14. Given the circumstances of the case, Respondents are directed to stay their hands *qua* sealing, eviction and/or demolition with respect to the Petitioner's Jhuggi until the next date of hearing.

15. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J
(VACATION JUDGE)

JUNE 23, 2023/r

Click here to check corrigendum, if any