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

+ **W.P.(C) 5378/2017 & CM No.22718/2017**

% **Date of decision : 1st August, 2017**

UDAL & ORS

..... Petitioners

Through : Mr. Robin R. David and
Mr. Dhiraj Philip, Advs.

versus

DELHI URBAN SHELTER IMPROVEMENT BOARD AND
ORS

..... Respondents

Through : Mr. Parvinder Chauhan,
Standing Counsel for R-1 with
Mr. Nitin Jain, Adv.
Mr. Devvrat, Adv. for R-2.
Mr. Gaurav Rohilla, Govt.
Counsel for R-3/UOI.
Ms. Gunjan Sinha Jain and Mr.
Mukesh Kumar, Advs.
for R-4/NHAI.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. This writ petition challenges the constitutional validity of Clause 1(iii), 1(vi) and 2 of (Part – B) of the Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015 (“*R&R Policy, 2015*” hereafter) *inter alia* on the ground that the same is arbitrary and in

violation of Articles 14 and 21 of the Constitution of India. The petitioners have, based on this primary challenge, assailed the letters issued by respondent no.1 Delhi Urban Shelter Improvement Board (“DUSIB” hereafter) treating them as ineligible for grant of alternate rehabilitation accommodation as well as demolition notice dated 13th January, 2017 based thereon. Given the nature of challenge, we first and foremost deem it appropriate to consider the policy in question.

2. Inasmuch as the present case has thrown up a challenge with regard to who would be eligible for rehabilitation or relocation, we extract hereunder the relevant prescriptions contained in the policy:

“Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (Part-B)

1. The eligibility criteria for allotment of alternative dwelling units to rehabilitate and relocate JJ dwellers would be as under :

(i) The JJ dweller must be a citizen of India and not less than 18 years of age;

(ii) The Jhuggi Jhopri basti in which the JJ dwellers are residing must be in existence prior to 01-01-2006. However, the cut-off date of residing in the jhuggi for becoming eligible for rehabilitation shall be 01.01.2015 (this is in supersession of the earlier cut-off date of 04.06.2009 as notified in the guidelines of 2013);

(iii) The name of JJ dweller must appear in at least one of the voter lists of the years 2012, 2013, 2014 and 2015 (prior to 01-01-2015) and also in the year of survey, for the purpose of rehabilitation;

(iv) The name of the JJ dweller must appear in the joint survey conducted by the DUSIB and the Land Owning Agency;

(v) The JJ dweller(s) will be subjected to bio-metric authentication by Aadhar Card or bio-metric identification by

other mechanism;

(vi) JJ dweller must possess any one of the 12 documents issued before 01.01.2015 as prescribed in the subsequent para;

(vii) Neither the JJ dweller nor any of his/her family member(s) should own any house/ plot/flat, in full or in part, in Delhi. The JJ dweller should not have been allotted any residential house or plot or flat on license fee basis or on lease-hold basis or on free-hold basis in the NCT of Delhi by any of the Departments or Agencies of GNCTD or Govt. of India, either in his/her own name or in the name of any member of his family;

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

(ix) In case, the jhuggi is being used for both residential and commercial purpose, the JJ dweller can be considered for allotment of one dwelling unit. In case, the ground floor of the jhuggi is being used for commercial purpose and other floors for residential purpose that will entitle the JJ dweller for one dwelling unit only;

(x) If a different family, having separate Ration Card issued prior to 01.01.2015 which fulfils all the other eligibility criteria is living on upper floor, the same will also be considered for allotment of a separate dwelling unit. (This is in supersession of the earlier notified guidelines of 2013)

(xi) The ineligible JJ dwellers will be removed from the JJ Cluster at the time of its rehabilitation/ relocation/ clearance of JJ Basti.

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

3. Appellate Authority

- (i) DUSIB will constitute an Appellate Authority for redressal of the grievances related to determination of eligibility for allotment of alternate dwelling unit for rehabilitation and relocation of JJ dwellers. The Appellate Authority will consist of the following:
 - (a) Retired Judge of the level of Additional Distt. Judge;*
 - (b) Retired civil servant of the level of Joint Secretary to Govt. of India;*
 - (c) An expert member to be nominated by the Chairperson of DUSIB;*
 - (d) Dy. Director of DUSIB to be nominated by the CEO- as Convener**
- (ii) The terms & conditions of the Appellate Authority will be*

decided by the Board separately.

(iii) Any JJ dweller feeling aggrieved by any order passed by an officer/ committee, authorized to determine eligibility of the JJ dweller shall be entitled to file an appeal before the Appellate Authority within a period of 30 days from the date of communication of the impugned order.

(iv) The Appellate Authority may for good and sufficient reasons, entertain an appeal filed beyond the period of limitation provided under clause (iii) above.

(v) The Appellate Authority may confirm, revoke or reverse the order appealed against and may pass such orders as deemed fit.

(vi) Order passed in appeal by the Appellate Authority, duly accepted by the CEO, DUSIB shall be final.

4. Terms and conditions of Allotment of alternative Dwelling Unit

(i) The contribution of the beneficiary will be Rs.1,12,000/- per dwelling unit having the carpet area of 25 sq.mtr. (The contribution may slightly vary on case to case basis depending upon the actual carpet area of the dwelling unit). In addition, the beneficiary will be required to pay an amount of Rs.30,000/- at the time of the allotment of the dwelling unit, towards the cost of maintenance for a period of 5 years.

(ii) The dwelling unit shall be allotted to the eligible JJ dweller for a period of 10 (ten) years on lease hold basis after which it will be converted into free-hold as per the prevalent policy (this is in supersession of the earlier leasehold period of 15 years as notified in the guidelines of 2013).

(iii) Allotment will be made in the joint-name of the husband and wife occupying the jhuggi.

(iv) The allottee shall not sublet or part with possession of the dwelling unit, by way of General Power of Attorney or any other document. The DUSIB will have the right to verify the veracity of the original allottee through Bio-metric survey using Aadhar data-base or otherwise. In case a different person(s)/family is found living at the time of survey in the

dwelling unit, the allotment/lease is liable to be cancelled and DUSIB will have the right to re-enter the dwelling unit.

(v) DUSIB may assist those beneficiaries who are not able to arrange the contribution to avail loans from banks/ financial institutions including co-operative banks.

6. CEO, DUSIB is authorized to approve the operational guidelines keeping in view the overall spirit of the policy.”

3. The respondent no.2 Government of NCT of Delhi has therefore, prescribed that the *jhuggi jhopri basti*, in which the *jhuggi jhopri* dwellers who are residing, must be in existence prior to 01.01.2006. However, the cut-off date for residing in the *jhuggi* for becoming eligible for rehabilitation has been stated as 01.01.2015.

4. A joint survey is required to be conducted by the DUSIB and the land owning agency and it is required under Clause 1(iv) of Part-B that the name of the *jhuggi jhopri* dweller must appear in such joint survey. The respondent no.2 has also given a wide prescription when it is required that the name of the *jhuggi jhopri* dweller must appear in one of the voter lists of the years 2012, 2013, 2014 and 2015 (prior to 01.01.2015) and also in the year of survey, for the purposes of the rehabilitation.

5. Additionally, the respondent no.2 has prescribed in Clause 1(vi) of Part-B the scheme that the *jhuggi jhopri* dweller must possess any one of the 12 documents mentioned therein having been issued before 01.01.2015.

So far as the documents envisaged in Clause 1(vi) above are concerned, in Clause 2 of Part-B, the respondent no.2 has considered

that the *jhuggi jhopri* dweller must possess “*any one*” of those documents issued.

6. The petitioners are aggrieved by the stipulation that the name of the *jhuggi jhopri* dwellers must appear in at least one of the prescribed voter list and possess any one of the 12 documents, mentioned in Clause 2 of the policy.

7. We are informed by Mr. Parvinder Chauhan, Id. counsel for respondent no.1 – DUSIB that this policy has been framed by respondent no.1 DUSIB and approved by the respondent no.2 GNCTD. It is submitted that the policy is pending approval before the Lt. Governor of Delhi. Mr. Chauhan informs us that in order to work the policy for the project i.e. widening of NH-24, the permission has been specially obtained by the DUSIB from the Lt. Governor of Delhi and scrutinized the entitlement for relocation.

8. On 1st July, 2010, the Delhi Urban Shelter Improvement Board Act, 2010 came into existence. Apart from establishment of DUSIB and matters connected therewith or incidental thereto, the Delhi Urban Shelter Improvement Board Act, 2010 also provides for implementation of the schemes for improvement of slums and *jhuggi jhopri* clusters with a view to bring improvement in the environment and living conditions, as also to enable the proper housing schemes to be prepared for such persons.

9. The R&R Policy, 2015 was approved on 11th April, 2016 by the DUSIB vide its Resolution No.16/3. This policy governs the process of removal/settlement/rehabilitation/ *in-situ* improvement/re-development of *jhuggis* and *jhuggi jhopri bastis* in Delhi. The policy

came before the draft protocol for removal of *jhuggis* and *jhuggi jhopri bastis* in Delhi was notified on 14th June, 2016 and it specified the steps be taken prior, during and after removal of *jhuggi jhopri* colonies.

10. Between 24th November, 2016 and 9th March, 2017, a joint survey was conducted by the officers of DUSIB and the officers of NHAI to assess the eligibility of the occupants of the Rajiv Camp for relocation under the R&R Policy, 2015.

11. The petitioners before us have claimed that they are *jhuggi jhopri* dwellers from the Rajiv Camp, Mandawali, Patparganj, Delhi who have been denied rehabilitation under the R&R Policy by the respondent no.1 purportedly on the ground that their names do not feature in the voter list of the years 2012, 2013, 2014 and 2015 and the petitioners have been issued ineligibility letters by the respondent no.1 DUSIB.

12. Apart from these petitioners, there are 28 other persons who have been seeking relocation in similar other circumstances whose cases were mentioned before us.

13. We have heard Mr. Robin R. David, Id. counsel for the petitioners; Mr. Parvinder Chauhan, Id. counsel for the respondent no.1; Mr. Devvrat, Id. counsel for the respondent no.2; Mr. Gaurav Rohilla, Id. counsel for respondent no.3; and Mr. Mukesh Kumar with Ms. Gunjan Sinha Jain, Id. counsels for respondent no.4 in the present matter.

14. It is trite that the right to housing is an essential part of Right to Life and a fundamental right ensured by Article 21 of the Constitution

of India. It has also been held that the right to life is not right to merely an animal existence but an entitlement to reasonable accommodation (*Ref. : (1996) 2 SCC 549, Chameli Singh & Ors. v. State Of U.P. & Anr.* and *(1990) 1 SCC 520, M/s Shantistar Builders v. Narayan Khimalal Totame*). The contours of this right were further expanded by a pronouncement of the Supreme Court reported at *(1997) 11 SCC 123, Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan & Ors.* wherein the court held that when slum dwellers have been residing at a place for some time, it became the duty of the government to make schemes for housing these jhuggi dwellers. Relying on the principles laid down in these judgments, this court in *168 (2010) DLT 298, Sudama Singh & Ors. v. Government of Delhi & Anr.* has relied upon the provisions of the Delhi Master Plan and emphasized in-situ rehabilitation of the slum dwellers.

15. Judicial notice can be taken of the fact that the National Capital Territory of Delhi attracts people, especially poor people, from all over the country who come to the city in search of work and must reside reasonably near to their place of work. In recognition of the responsibility to house the poor in a permanent humane manner, the Government of NCT of Delhi announced “*Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015*”. Under Clause 2(a), Delhi Urban Shelter Improvement Board (‘DUSIB’ hereafter) was appointed as the nodal agency for implementation of the policy.

16. The petitioners have stated that from 1995 onwards, they started living in the location which came to be known as the Rajiv Camp on the back side of fire station at Mandawali, Patparganj, Delhi.

Therefore, so far as the R&R Policy, 2015 is concerned, the residents of the *jhuggi jhopri basti*, if any, established before 01.01.2006, are eligible for consideration of the alternate housing in accordance with Clause 2(a)(i) of Part-A of R&R Policy, 2015.

17. The documents of the petitioners and these 28 persons were scrutinized by the DUSIB which rejected them as being ineligible primarily for the reason that their names did not feature in the electoral rolls of the years 2012, 2013, 2014, 2015 and 2016. Additionally, some of the petitioners were unable to produce any of the 12 documents mentioned in Clause 2 of Part-B of the R&R Policy, 2015. The ineligibility letters were issued by the Deputy Director (Rehabilitation) of the respondent no.1 to the petitioners and were handed over to them w.e.f. 20th December, 2016.

18. By the same ineligibility letters, the petitioners were informed that they could file the appeal within 30 days before the appellate authority.

19. On 13th of January 2017, notice for demolition was issued by the respondent no.1 to those residents of the *jhuggi jhopri basti* of said Rajiv Camp, who were declared ineligible as well as to those residents who were not present during the eligibility determination camp, directing them to vacate the *jhuggis* between 18th to 20th January, 2017 failing which it was informed that *jhuggi jhopri* would be demolished on 21st January, 2017 and ownership of the land would be handed over to the respondent no.4 NHAI.

20. The petitioners filed a representation dated 16th January, 2017 with the Director (Resettlement) of the respondent no.1 which was of

no avail and on 9th of February 2017, the respondent no.1 demolished 77 *jhuggis* rendering the petitioners homeless.

21. We are further informed that all the petitioners and about 20 of the other persons filed an appeal before the respondent no.1, again challenging the ineligibility letters issued by the respondent no.1. We are informed by Mr. Parvinder Chauhan, Id. counsel for the respondent no.1 that no orders have been passed in these appeals inasmuch as the matters were brought to this court by the petitioners.

22. In the meantime, in view of the demolition of all the *jhuggis*, post 9th February, 2017, the petitioners along with the other persons, were constrained to install make-shift tents/shelter in the vicinity of the Rajiv Camp near NH-24. The petitioners have also made a grievance that despite their request dated 30th May, 2017 seeking intervention by the Lt. Governor of Delhi and requesting for clean drinking water, temporary shelter, temporary toilets, etc., nothing has been received by the petitioners as yet.

23. On or about 21st June, 2017, the petitioners have filed the present petition seeking the above reliefs. On a *prima facie* consideration of the matter on the 6th of July 2017, we had directed the respondents to produce before us the survey of DUSIB which was conducted in 2016 and also that of the petitioners. In the meantime, we had directed *status quo* to be maintained regarding occupation of the petitioners till the next date of hearing and the said order was continued by us on the 7th of July 2017 and thereafter.

24. Before us, the petitioners have challenged their rejection of their entitlement primarily on the ground that they had multiple documents

establishing that they were actually the residents of Rajiv Camp prior to the 1st of January 2015 which was the cut-off date as per the R&R Policy, 2015 of DUSIB. However, either the same could not be placed before the DUSIB or was not properly examined or inappropriately construed. Mr. Robin R. David, Id. counsel for the petitioners has also submitted that some of the petitioners had documents dating as far back as the year 1995 with documentation missing for brief periods in the *interregnum* till date. It was observed by us on 7th July, 2017 that the very fact that the documents were spread all over such long periods prior to 2015 and even thereafter, would *ipso facto* establish their continuity of occupancy in the Rajiv Camp. Mr. David has explained that the loss of documents and gap had occurred on account of the persons' extreme poverty, illiteracy and inability to preserve and maintain proper records. We have found substance in this submission.

25. As the policy discloses, the residents were themselves conscious of the high pedestal at which the right to shelter especially of *Jhuggi Jhopri* dwellers was placed by the authorities themselves.

26. On 7th July, 2017, we have taken a view that the clauses in the policy are required to be harmoniously construed and a fair and realistic view had to be taken. It was essential to conduct a proper scrutiny of documents which was not possible to be undertaken by the court on account of paucity of time.

27. Mr. Robin R. David, Id. counsel for the petitioners has also brought to our notice that there were certain other families who did not have any information that they were entitled to consideration under the

Rehabilitation Scheme aforesaid of the respondent no.1 and valuable rights would be negated without their having undergone the scrutiny under the scheme in question. On the 7th July, 2017, we had also found that this position was correct and that such other occupants of the Rajiv Camp were entitled to be given an opportunity of consideration under the said scheme.

28. In this view of the matter, we had issued the following directions on 7th July, 2017.

“6. We accordingly direct as follows :

- (i) We appoint Ms. Mamta Mehra, Advocate (Mob.No.9810001790) as Local Commissioner in this case to assist this court.*
- (ii) Liberty is given to Mr. Robin David, Advocate to file before Ms. Mamta Mehra, Local Commissioner, a list of persons who were occupying Rajeev Camp and have so far not approached either the respondents or this court for rehabilitation with advance copy to Mr. Parvinder Chauhan, Standing Counsel for respondent no.1*
- (iii) Liberty is given to the petitioners and these persons in this list to place their documents for scrutiny as well before Ms. Mamta Mehra, Local Commissioner.*
- (iv) The documents shall be filed with Ms. Mamta Mehra, Local Commissioner within three days from today.*
- (v) Ms. Mehra would undertake a scrutiny of all documentation which is placed by the petitioners regarding themselves and/or their families to support their plea that they were actually occupying the Rajeev Camp, behind Fire Station, Mandawali, East Delhi and to submit a report with regard to the same. The report shall be submitted to us on or before the next date of hearing.*
- (vi) In case any clarification is required, it shall be open for the Local Commissioner to join representatives as well as counsel for the petitioners/occupants and counsel for the*

respondents.

(vii) A direction is issued to the SHO PS Mandawali to ensure that no person occupying the ducts or residing at a spot near the high tension wires which could endanger their lives.”

29. Pursuant to these directions, the documents were filed by the petitioners as well as 28 other persons claiming to be the occupants of Rajiv Camp in support of their contentions that the colony had come into existence before 1995 and that they were occupying the camp since much before 2006.

30. After conducting a careful scrutiny of the documents, Ms. Mamta Mehra, Local Commissioner has submitted a detailed report dated 12th July, 2017, which has been taken on record. As per this report, a finding has been returned that the petitioner nos.2,3,4,5 and 10 have been residing at the Rajiv Camp behind the Fire Station, Mandawali, East Delhi for the last several years. Additionally, 10 other occupants of the Rajiv Camp, whose names appear at serial Nos.A1, A2, A3, A4, A5, A7, A18, A19, and A20 of the report have also been found residing at the said Rajiv Camp for the last several years.

31. The Local Commissioner has concluded that the petitioner nos.1,6,7,8,9,11 as well as the additional persons at serial nos. A6, A8, A9, A10, A11, A12, A13, A14, A15, A16, A21, A22, A23, A24, A25, A26, A27 and A28 were unable to establish their existence in the Rajiv Camp with sufficient documentation.

32. So far as the petitioner nos.2,3,4,5 and 10 are concerned, it has been observed that they have been able to *inter alia* produce the

documents, including the National Food Security Card, Ration Card, Gas/Oil Bill, Electricity Bill, BSES Meter Change Report, School Leaving Certificates, School Progress Report of Children, Report Cards of Children, Aadhar Cards, Driving Licences, Passbooks, PAN Card, Death Certificate of the Spouse of one of the parties, LIC Policy, etc. for broadly the period between 2002- 2017. Additionally, these petitioners were able to produce documentation from the schools where their children were studying. Therefore, even though these petitioners could not produce the record of their names featuring in the electoral rolls over the period prescribed in the policy, however, if an holistic view is undertaken of the documentation as produced, it would amply establish the residence and existence of these persons at the Rajiv Camp for the periods from 1998 till 2016.

Similar is the position of the persons (A1, A2, A3, A4, A5, A7, A18, A19 and A20) who were permitted by the order dated 7th July, 2017 to appear before Ms. Mamta Mehra, Local Commissioner.

33. We extract hereunder the names of these persons so that there is complete clarity :

“A1-Devti; A2-Akbari; A3-Teyav Ansari; A4-Ganeshi Bai; A5-Noorjahan Khatun; A7-Sanjay Das; A17-Indu Devi; A18-Prabhu Mahato; A19-Meera Devi and A20-Harishmani”

34. So far as the petitioner nos.1,7, 8 and 11 as well as additional persons, i.e., A6, A8, A9, A10, A11, A13, A14, A15, A16, A21, A22, A23, A24, A25, A26, A27 and A28 are concerned, we agree that they are unable to establish their residence in the Rajiv Camp.

35. Also petitioner no.6 - Pyari Devi, petitioner no.9 - Somwati

and additional person A12 – Mor Kali are concerned, they have produced documents reflecting the addresses other than the Rajiv Camp and, therefore, they are also ineligible for consideration for rehabilitation under the R&R Policy, 2015.

36. Mr. Parvinder Chauhan, Id. Standing Counsel for respondent no.1 has staunchly contended that the requirement of Clause 1(iii) of Part-B of R& R Policy to the effect that the name of the person must feature in the electoral roll for any of the prescribed five years, is mandatory and the failure for the name to appear in such electoral roll must be fatal so far as consideration for allotment of alternative flat for rehabilitation under the R&R Policy is concerned. In the given facts and circumstances, we are unfortunately unable to agree with this submission. The records placed by these persons include National Food Security Cards, Ration Cards, Oil/Gas Bill, SC/ST Certificates, Electricity Bill, LIC Policies, Gas Connection Records and Bills, Driving Licences, Passbooks, Birth Certificate of Children as well as records of School Admission of Children, their Progress Report Cards, all of which show their continued existence on the spot. A realistic view has to be taken in this regard. We find that the persons who were found ineligible were in possession of public identification including Voter ID – cards. The failure of the names of such persons to feature in the electoral roll could be for any number of reasons. The same could happen, if the person was not at home at the time the Booth Level Officer visited *Jhuggi* of the person concerned. This could be on account of the occupation of the person or for the person and adults of the family having left the *Jhuggi* for work. Obviously, the Booth

Level Officer or any persons conducting the survey would not have met the adult members of the family. There would thus not be any adult members of the family to give the information for names to be included in the electoral rolls.

37. So far as the names of the petitioners and the other persons are concerned, we find that the names of the petitioner nos.2, 3, 4, 5 and 10 have featured in the joint survey conducted by DUSIB and NHAI.

38. Additionally, the names of the persons at Sr. Nos.A1, A2, A3, A4, A5, A7, A18, A19 and A20 have featured in the joint survey conducted by the DUSIB and NHAI.

39. We find that as per Clause 2 of PART – B of the R&R Policy, 2015, it has been mandated that the *Jhuggi Jhopri* dwellers must possess “*any one*” of the 12 documents. In the above cases, the *Jhuggi Jhopri* dwellers have produced multiple records ranging to periods in the late 1990s till date. In this view of the matter, the persons detailed in paras 37 and 38 above are clearly entitled to the benefit of the policy. We are of the view that the ineligibility letter dated 22nd December, 2016 by the respondents have been issued to these persons because of a disjoint reading of Clause 1(iii) and Clause 2 of PART – B of the policy. The same ought to be read together and a conclusion has to be drawn on a holistic consideration of the documents which are required to be filed detailed at Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015.

40. In this view of the matter, it is not necessary for us to strike down the requirement laid down by the respondents in Clause 1(iii) and Clause 2 of Part-B of the R&R Policy, 2015.

41. So far as the challenge of the petitioners to the requirement in Clause 1(vi) of Part-B of the R&R Policy, 2015 is concerned, we find that the respondent no.2 has prescribed thereby that the name of the *Jhuggi Jhopri* dwellers must appear in the joint survey conducted by the DUSIB and the land owning agency. We are unable to hold that this requirement is either arbitrary or unconstitutional. The challenge to this clause of the R&R Policy, 2015 is therefore, rejected.

42. In view of the above, we direct as follows :

- (i) The petitioner nos.2 - Basanti, 3 - Shanti, 4 - Kamlesh Devi, 5 – Asha Devi and 10 – Naimwati as well as the persons at Sr. Nos. A1-Devti; A2-Akbari; A3-Teyav Ansari; A4-Ganeshi Bai; A5-Noorjahan Khatun; A7-Sanjay Das; A18-Prabhu Mahato; A19-Meera Devi and A20-Harishmani are held to have been residing at the Rajiv Camp behind the Fire Station, Mandawali, East Delhi for the period required under the R&R Policy, 2015 and are held entitled to allotment of flats under the same subject to a fulfilment of the other conditions stipulated in Part-B of the R&R Policy, 2015. The ineligibility letters issued to these persons shall hereby stand quashed.
- (ii) Subject to the persons detailed in paras 37 and 38 above, depositing the required amount of ₹1,42,000/- and furnishing the prescribed documentation to the respondent no.1 within a period of three months from today, the respondents shall issue the allotment letters to these persons forthwith and hand over possession of the flats.

43. We had appointed Ms. Mamta Mehra, Advocate as Local

Commissioner and requested her to assist this court in scrutiny of the documents, as it would have been not only a time consuming but given the number of persons and the nature of documents to be examined, a difficult task. We are truly appreciative for the work which has been undertaken by Ms. Mamta Mehra, Local Commissioner who devoted a complete weekend and has undertaken a laborious exercise enabling this court to effectively adjudicate on what would have been an impossible issue otherwise. This court places on record appreciation on the *pro bono* assistance given by Ms. Mamta Mehra, Local Commissioner to this court.

44. This writ petition is allowed in the above terms. However, it is made clear that the present judgment shall not be treated as a precedent.

Dasti.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 01, 2017

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