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

+ **W.P.(C) 8035/2024 & CM APPLs.52659-60/2024, 52780/2024, 52897/2024, 59162-63/2024, 59345-46/2024, 61322/2024, REVIEW PET. 373/2024**

SHABNAM BURNEY

..... Petitioners

Through: Ms Vrinda Grover, Mr. Prasanna J.,
Ms Devika Tulsiani & Mr Soutik
Banerjee, Advs. (M: 9953585631)

versus

UNION OF INDIA& ORS.

..... Respondents

Through: Mr Avishkar Singhvi, ASC with Mr
Vivek Kumar Singh, Adv. for
GNCTD/PWD. (M: 8527586706)
Ms. Harshita Maheshwari, Adv. for
Mr. Anuj Chaturvedi, Adv.
Mr. Shivraj Singh Tomar, Adv. for Mr.
Tushar Sannu, (SC)
Ms. Prabhsahay Kaur, Standing
Counsel for DDA with Mr. Vishwajeet
Gahlot (AD PMUDAY).

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AND

+ **W.P.(C) 8489/2024 & CM APPLs.34941/2024, 63347/2024, 12263/2025**

KRISHAN KUMAR & ORS.

..... Petitioners

Through: Ms Vrinda Grover, Ms Devika
Tulsiani, Ms Rupali Samuel & Mr
Soutik Banerjee, Advs. (M:
9953585631)

versus

DELHI JAL BOARD & ORS.

..... Respondents

Through: Mr Avishkar Singhvi, ASC with Mr
Vivek Kumar Singh, Adv. for
GNCTD/PWD. (M: 8527586706)
Mr. Raghuvendra Upadhyay, Ms.



Purnima Jain & Mr. Vaibhav Tripathi,
Advs. for R-2 to 4
Mr. Haider with Mr. Butul Khan,
Advs. for DJB.
Ms. Harshita Maheshwari, Adv. for
Mr. Anuj Chaturvedi, Adv.
Mr. Shivraj Singh Tomar, Adv. for Mr.
Tushar Sannu, (SC)
Ms. Prabhsahay Kaur, Standing
Counsel for DDA with Mr. Vishwajeet
Gahlot (AD PMUDAY).

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **28.03.2025**

1. This hearing has been done through hybrid mode.
2. All Id. Counsels, irrespective of whether they have been impleaded or not, are permitted to obtain electronic records of the Court in order to assist the Court.

Madrasi Camp

3. The present application i.e. **CM APPL. 52897/2024** in **W.P.(C) 8035/2024**, has been filed by the Applicants (hereinafter ‘Jhuggi Dwellers’) under Section 151 of CPC seeking modification of order dated 8th July, 2024. The writ petition was filed seeking removal of illegal constructions and encroachment on the banks of Barapulla drain, in order to ensure that the water logging does not take place during the monsoon seasons. *Vide* order dated 08th July, 2024 the Court had directed as under:

“6. Keeping in view the aforesaid, this Court directs the Vice Chairman, DDA, to remove all encroachments and illegal construction on the Yamuna river bank, river bed and drains flowing into river Yamuna. He is



also appointed as the Nodal Officer and shall coordinate with officials of MCD, Delhi Police, DMRC, Irrigation and Flood Control Department, PWD, Delhi Pollution Control Board and Forest Department. The Vice Chairman, DDA shall convene a meeting of all the concerned officials within a week.”

4. The modification is sought to the extent that the Applicants/Dwellers be exempted from being removed until they are properly rehabilitated on various grounds including the fact that they are entitled to such protection under the DUSIB Act and the DUSIB Policy of 2015.
5. The matters have been heard in part in respect of the rehabilitation of the *Jhuggi* Dwellers in the Madrasi Camp.
6. At the outset, it is noticed that Mr. Anuj Chaturvedi, Id. Counsel for Delhi Urban Shelter Improvement Board (hereinafter ‘DUSIB’) is not available. The Court would like to place a serious concern on record in respect of the lack of assistance being given by DUSIB in these matters. Despite repeated opportunities being given, it is with great difficulty that DUSIB’s stand is being brought on record. This position continues even today. In view of this position, let a senior official of DUSIB remain present on every date of hearing in these matters from the next date.
7. Today, Ms. Prabhsahay Kaur, learned Counsel for the Delhi Development Authority (hereinafter referred to as ‘DDA’), emphasizes the urgency of the matter, stating that the draw of lots for allotment of alternate accommodations to 189 eligible *Jhuggi* dwellers of Madrasi Camp is scheduled to take place tomorrow, i.e., 29th March, 2025.
8. The clear stand of the Respondent/DDA is that the *basti* residents cannot seek re-opening of various orders which have already been passed by



this Court wherein it has been made clear whether the Madrasi Camp would have to be removed from the Barapulla drain in order to ensure that the water logging does not take place.

9. To this position, Ms. Vrinda Grover, Id. Counsel for the *Jhuggi Dwellers* fairly admits that the Applicants/Dwellers do not, in-principle, have an issue in being rehabilitated. However, she submits that there are various concerns in such rehabilitation of the *Jhuggi Jhopdi Dwellers*.

10. Firstly, she submits that the Respondents collectively try to impose an image of the *Jhuggi* dwellers being the sole reason for the hindered flow of Barapullah Nallah. It is her submission that there are other factors such as pillars and boulders constructed by the Respondents which also contributes to the hindrance in the flow of the subject canal. She places reliance on a report dated 04th October, 2024 annexed as Annexure A-2 to substantiate her claim.

11. Ms. Grover, then, contends that any hasty rehabilitation would adversely affect several families. Elaborating upon it, she submits that there are certain requisite facilities to be duly provided, in terms of DUSIB's policy, for rehabilitating a colony and such hasty rehabilitation process might result in the non-provision of these essential facilities to the Applicant/Dwellers. Therefore, it is her submission that until such compliance is ensured, no direction for rehabilitation should be issued. She, therefore, submits that the draw of lots proposed by the DDA, scheduled for tomorrow, ought not to be conducted in light of the said contentions

12. It is further submitted by Ms. Grover, that out of the 370 *Jhuggi Jhopdi* families, 189 have been found to be eligible and 182 have been found to be ineligible. She states that out of the said 182 ineligible dwellers to her knowledge 84 dwellers, as per her instructions, have filed an appeal. She



states that out of these 84 appeals, 70 appeals still remain pending. According to Ms. Grover, the exact status of the pending 70 appeals can be verified from the DUSIB. In this regard, it is her submission that if the draw of lots for 189 eligible *Jhuggi Jhopdi* dwellers is conducted tomorrow, the Court ought to ensure that the remaining 182 dwellers, whose appeals may be filed before DUSIB, should not be left unadjudicated and the rights of the said dwellers if they succeed should be protected.

13. It is further urged that the next concern is about facilities pertaining to transportation and schools for the persons/children who are being rehabilitated, in the proposed neighbourhood of Narela.

14. Upon a query from the Court about the availability of funds for rehabilitation, Ms. Kaur, Id. Counsel for DDA submits that the money, to the tune of approximately Rs.27 crores, has been received from the PWD. As per the affidavit filed by DUSIB dated 9th November, 2024, the exact status of the said amount is as under:

*“Provisional relocation charges to DUSIB in respect of **318** jhuggi households at Rs.8,64,100/- amounting to Rs.27,47,83,800/-.”*

(Emphasis supplied)

15. The above amount is stated to have been deposited by PWD with the DDA. It is relevant to note that DUSIB’s affidavit clarifies that the amount deposited covers rehabilitation costs for 318 *Jhuggi Jhopdi* Dwellers.

16. With respect to the factum of *jhuggis* in hindering the Barapulla Nallah, the DDA places reliance on the report of the I&FCD which is signed by the Executive Engineer of the PWD dated 4th October, 2024. The same reads as under:



“In compliance of the order of Hon'ble High court Delhi Dated 10.09.2024 in the matter W.P.(C) 8035/2024, CM Nos. 52659/2024 & 52780/2024, CM Appls. 52660/2024 & 52897/2024, the PWD was directed to file a status report.

Matter was taken up with Irrigation & Flood Control (I&FC) department to identify the exact requirement for removal of jhuggies for unhindered flow of Barapullah Nallah. Subsequently, a meeting under the chairmanship of the Vice-Chairman, DDA, was convened on 20.09.2024 wherein officers from the PWD, MCD, DUSIB and I&FCD department participated.

During the meeting, PWD raised the issue of demarcation of right of way of the drain that needed to be done by the I&FC department, in response to which, the I&FC department informed that:

- 1. They have already carried out this exercise and that 03 out of 11 water bays of the drain are blocked due to the presence of Jhuggies, jhopris, cluster of Madarsi Camp.*
- 2. All the three bays needs to be cleared for smooth and un-obstructed flow for which existing H.T tower and Madrasi camp jhuggi needs to be removed from the right bank of the drain downstream of the old Barapullah bridge.*
- 3. The span of three bays of old Barapullah Bridge from right bank is 20.70 meter.*
- 4. The total No. of jhuggies which are to be demolished and removed from drain bank has been worked out to be 214 nos (approx.) along with some other structures.*

During the meeting, the Vice-Chairman, DDA, Directed the I&FC department to submit a written report alongwith big-sized legible copies of map of the drain as shown in the meeting.

The PWD is in receipt of the Map from I&FC



department showing layout plan of the jhuggies clusters to be removed from the right bank of the Barapullah drain alongwith some photographs of the said location. The status report is submitted herewith.

17. The aforesaid report of the I&FCD clearly records that the *Jhuggi Jhopdi* is falling on the right of way.

18. After having heard the Id. Counsel for the DDA and the Id. Counsels representing some of the *Jhuggi Jhopdi* Dwellers, this Court records that the previous orders are quite clear and the same are summarised herein below:

(i) The Court, *vide* order dated 8th July 2024, records the Petitioner's submission that unauthorized construction on the Yamuna floodplains posed environmental risks, endangered lives during monsoons. This submission was substantiated by GNCTD and Delhi Police who highlighted repeated representations being made to them about illegal constructions. The Court upon hearing the parties directed the remove all encroachments and illegal construction on the Yamuna river bank, river bed and drains flowing into river Yamuna. (paragraph no. 6)

(ii) The Court, *vide* order dated 10th September, 2024, issued notice in the present application and had directed the status *quo* to be maintained to examine the eligibility of the rights of the applicants for rehabilitation under the DUSIB policy. (paragraph no. 4 and 10)

(iii) The Court on 23rd October, 2024 while passing a detailed order opined that the removal of the 214 *Jhuggis* is permissible under the DUSIB policy even prior to rehabilitation of the eligible *Jhuggi*



dwellers in view of the overriding public interest in the facts of this case. The Court also recorded the finding that there is no dispute between *Jhuggi* dwellers and the statutory agencies that the *Jhopdi* cluster is falling on the right of the way and is thus hindering the flow of the water in the *Nallah*. The said finding was returned by the Court after considering the report dated 04th October 2024 relied upon by the applicant. (paragraphs 5 to 10, 12, 17, 18, 20, 21, 22.5 and 22.6).

(iv) The Court *vide* order dated 29th November, 2024, recorded that the 214 EWS flats have been identified by DDA for rehabilitation of the eligible *jhuggi* dwellers. In view of the same directed the PWD, GNCTD that to ensure a timely rehabilitation it must make immediate deposit of Rs. 27.4 crores with DUSIB for onwards payment to DDA. (paragraph nos. 5 and 6)

(v) The Court in its order dated 20th December 2024 recorded the submission of DUSIB with respect to the status of verification of the 189 eligible dwellers on the basis of its affidavit dated 13th December, 2024. PWD as well was directed to ensure the deposit of Rs. 27.47 crores to DDA. (paragraph nos. 4, 5, 7 and 9).

19. It is also relevant to point out that in the order dated 20th December, 2024, the main concern raised by Ms. Grover, Id. Counsel appearing for the *Jhuggi Jhopdi* Dwellers is that the winter had set in, GRAP-IV measures have been introduced and the weather was inclement and therefore considering that schools are also nearby for the said *Jhuggi Jhopdi* Dwellers, immediate rehabilitation and relocation may not be directed. The same is also recorded



in paragraphs 4 to 6 as under:

“4. Further to the last order dated 6th December, 2024, an affidavit dated 13th December, 2024 has been placed on record by the Principal Director-Mr. P.K. Jha of DUSIB giving the details of the eligible jhuggi dwellers for rehabilitation, after a joint survey conducted of the Jhuggis at Madrasi Camp, Jangpura by the DUSIB, Public Works Department (hereinafter, ‘PwD’), Irrigation and Flood Control Department (hereinafter ‘I&FCD’). Paragraph 9 of the said affidavit reads as under:

“9. That the said EDC revealed that only 189 jhuggies have been found to be provisionally eligible for rehabilitation as per the Policy, 2015. That the break-up of the said eligible jhuggies is as under:

Jhuggies in Madrasi Camp	No. of Jhuggies as per survey	No. of Jhuggies dwellers found to be provisionally eligible	No. of Jhuggies Dwellers found In-eligible
Situated on right bank of Jungpura drain	248	135	96 (In-eligible) + 17(who did not appeared before EDC)
Remaining Jhuggies of Madrasi Camp	122	54	50(In-eligible)+17(who did not appeared before EDC)
Total:	370	189	182

”

5. As per the above stated survey, overall 189 jhuggi dwellers have been found to be eligible and 182 jhuggi dwellers have been found to be ineligible. The list of eligible jhuggi dwellers has been annexed as Annexure 4 (Colly) with the affidavit. It is seen that some 34 jhuggi dwellers had not appeared before the DUSIB. Last opportunity shall be given to such jhuggi



dwellers who did not appear before the DUSIB to determine their eligibility by appearing in Court by moving an application and make submissions which they wish to make within one week, failing which it shall be deemed that they have nothing to say in the matter.

6. *Ms. Vrinda Grover, Id. Counsel appearing for the said jhuggi dwellers submits that the alternative accommodation being provided to the said eligible jhuggi dwellers is in Narela. Substantial number of the families have children who are studying in nearby schools near Jangpura including the Delhi Tamil Education Association (DTEA). The weather condition is inclement presently and owing to GRAP 4 conditions having been imposed, the eviction ought to await at least a few months. Id. Counsel further submits that as per the protocol of DUSIB, various facilities ought to be available such as ration shops, clinics and transport in order for the rehabilitation to be fully effective. She, however, concedes that insofar as shifting out is concerned, the jhuggi dwellers would not obstruct the same in any manner as long as their concerns are taken care of. As an alternative suggestion, she submits that in the Kalkaji area there are several EWS category flats which the DDA has built which could also be considered, bearing in mind the vicinity in which these jhuggi dwellers are living. The submission is that if the Kalkaji EWS flats could be considered for rehabilitation these families' lives would not be disrupted."*

20. Thereafter, the Court has also heard this matter from time to time and considered the request of the *Jhuggi Jhopdi* Dwellers of looking at availability of accommodation nearby the present Madrasi Camp. However, DDA has taken a clear position on affidavit in the hearing dated 28th January, 2025 that there are no other EWS flats available in the nearby locations other than at Narela.



21. Under these circumstances and owing to the fact that the monsoon is also likely to arrive in the next 2 to 3 months in Delhi, it is absolutely essential that the Barapulla drain is cleared up prior to the monsoon so that the water logging in Delhi area can be avoided to the extent possible.

22. The status report of the PWD leaves no doubt in the mind of the Court that the drain is blocked due to the *Jhuggi Jhopri* cluster of the Madrasi Camp. Under such circumstances, since the DDA is ready to hold a draw of lots for all the 189 eligible *Jhuggi Jhopdi* Dwellers, it is directed that the draw of lots be held tomorrow i.e., 29th March, 2025 in respect of the 189 *Jhuggi Jhopdi* Dwellers and a report be filed by the next week.

23. The amount has been deposited by the PWD with the DDA as recorded in order dated 28th January, 2025. The relevant paragraph of the said order reads as under:

“9. Mr. Aggarwal, Id. Counsel appearing for the PWD GNCTD submits that the amount of Rs. 27.47 crores has been remitted to the DDA.”

24. On behalf of the DDA, it is also submitted that the said EWS flats which have been identified for the *Madrasi* Camp dwellers are in Narela and more than 356 families have already been allotted flats in the said area. Ms. Kaur also submits that in terms of the policy of DUSIB dated 14th June 2016, nearby schools have also been mapped and DUSIB may be directed to take necessary steps as per its policy to enable the children to take admission in the nearby schools. The policy of DUSIB in respect of the education and health is also extracted below:

“(vii) In order to provide suitable facilities at the allotted site, DUSIB will make request to the concerned authorities as under:



- (a) *Directorate of Education, GNCTD/MCD will be requested to make arrangement for admission of the wards of the jhuggi dwellers in the nearby schools.*
- (b) *Directorate of Health Services, GNCTD, will be requested to set up a 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 requested to make arrangements of the DTC buses.*
- (e) *DUSIB shall facilitate the availability of drinking water and sewage facilities in the flats to be allotted.”*

25. The DDA shall file its status report after allotting the 189 flats. In the meantime, DUSIB shall also work with the DDA; and on the basis of the flats allotted to the families of *Jhuggi Jhopdi Dwellers*, in terms of the 14th June, 2016 protocol, DUSIB shall provide suitable facilities to arrange for the education and health including making available Kendriya Bhandaar store accessibility, in the near vicinity as also transportation facilities, as per its policy.

26. Let the draw of lots be conducted tomorrow i.e., 29th March, 2025 and a report be filed in respect of the same by the next date.

27. DUSIB shall also file a report in respect of making available facilities to the *Jhuggi Jhopdi Dwellers* in terms of paragraph (vii) of the policy dated 14th June 2016 extracted above.

28. The DUSIB shall also place on record in its report the status of the appeals filed by the ineligible *Jhuggi Jhopdi Dwellers*, if any, and the timeline within which the said appeals to be decided.



29. The responsibility of implementing this order on behalf of the DUSIB is fixed on Mr. P.K. Jha, Principal Direction, DUSIB who shall file the report and present the same on the next date.

30. The 189 families of *Jhuggi Jhopdi* Dwellers shall participate in the draw of lots tomorrow i.e., **29th March, 2025** at about **12:00 p.m.** at Auction Hall, D-Block, Vikas Sadan, DDA, Delhi-110023. The concerned officer's name and mobile number is set out below:

Name: Mr. Vishwajeet Gahlot, Assistant Director, PMAY-(H)

Mobile No. 8860777185

31. List on 17th April, 2025.

32. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

PRATHIBA M. SINGH, J.

MANMEET PRITAM SINGH ARORA, J.

MARCH 28, 2025

Rahul/Ar.