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

Reserved on: 21.03.2016

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Pronounced on: 29.04.2016

+ LPA 147/2016

RAJIV CAMP SAIDABAD

..... Appellant

Through Mr. Ajay G. Majithia, Advocate

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through Mr. Peeyoosh Kalra, ASC with

Ms. Sona Babbar, Advocate for GNCTD

Ms. Mini Pushkarna, Standing Counsel for SDMC

Mr. Parvinder Chauhan, Standing Counsel for
DUSIB.

Mr. Jatan Singh, Advocate for R-6

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. The present appeal is filed seeking to impugn the order dated 6.1.2016 dismissing the writ petition of the petitioner. The appellant filed the writ petition seeking a writ of mandamus for directing respondents No.1 to 3 to allot plots to the beneficiaries of Rajiv Camp in terms of policy guidelines for implementation of the scheme for relocation/rehabilitation and allotment of plots to slum and JJ dwellers in terms of order dated 16.7.2010 and 3.2.2011.

2. The brief facts which led to filing of the Writ Petition are that the appellant describes itself as Rajiv Camp, Saidabad. The petition was purportedly filed through its President Shri Gena Prasad on behalf of 474

Jhuggi clusters situated at Rajiv Camp, Sahibabad, Main Mathura Road, near Sarita Vihar, New Delhi. It was urged that the residents of the said jhuggi clusters are in possession of valid ration cards and voter identity cards. It was further stated that the scheme for rehabilitation/relocation of jhuggi cluster was made by allotting alternate sites. The policy guidelines dated 3.2.2004 have been relied upon to support the said contention. The slum and JJ Department carried out a joint survey with DMRC, the department that was carrying out the demolition and prepared a list of jhuggi dwellers existing on site. The slums and JJ Department thereafter vide letter dated 10.2.2009 informed DMRC that none of the jhuggi dwellers are eligible for allotment of alternate site. It is urged that the dwellers made representations pointing out that they have been living at the existing site for more than 20 years and have valid claim/proof of their existence. It is admitted that the jhuggi dwellers were removed/evicted from the site by DMRC allegedly without notice.

3. It is further stated that 268 jhuggi dwellers who were removed from Rajiv Camp were recommended for allotment on temporary basis at Savada, Ghewra relocation complex at Nangloi.

4. It is further pointed out that the Govt. of NCT of Delhi, Urban Development Department vide its decision dated 16.7.2010 extended the cut off date from 31.12.1998 to 31.3.2002 for allotting flats for rehabilitation/relocation. On 3.2.2011 the cut off date was extended from 31.3.2002 to 31.3.2007.

5. Respondent No.2/DUSIB had filed their counter-affidavit. A preliminary objection was raised as to the locus of the appellant to file the writ petition. It is urged that the appellant has no status inasmuch as it is

neither a Society nor a Trust nor an NGO or a company. It is not a juristic person and no proceedings would be maintainable on its behalf. It was hence urged that the appellant has no authority to file the present writ petition.

6. It has been further urged that the JJ cluster stood removed by Delhi Metro Rail Corporation on 23.6.2009. It is urged that a joint biometric survey of JJ cluster of Rajiv Camp was carried out by the Slum and JJ Department alongwith representatives of DMRC as the land was proposed to be used by DMRC. A total of 474 jhuggies were found existing at site. However, on receipt of verification report from Food and Supply Department, it was found that not even a single person was found entitled for relocation/rehabilitation. As per the policy, jhuggi dweller families having ration card issued upto 31.12.1998 were only eligible for relocation. In the present case, none of the families were found in possession of ration card issued upto 31.12.1998. Regarding the extensions in cut-off date given, namely, vide office orders dated 16.7.2010 and 3.2.2011, it was urged that these office orders do not have retrospective effect. The relocation was available as per the said office orders only in case the cluster was existing on the date of issue of the said guideline/cabinet decision. In the present case, the jhuggi cluster in question was not existing on the said dates inasmuch as it had been removed on 23.6.2009.

7. The learned single judge vide the impugned order noted that the persons whom the appellant claims to represent were found to be ineligible for relocation. Further, the impugned order notes that the extended dates issued by the office order dated 16.7.2010 and 3.2.2011 were available only to those jhuggies which were removed after the above dates. On this basis

the writ petition was dismissed as the jhuggi dwellers were not eligible for alternate accommodation.

8. We have heard learned counsel for the parties and perused the record. The admitted position is that as per the original cut off date, that is 31.12.1998 the jhuggi dwellers whose cause is sought to be espoused were not eligible for the rehabilitation scheme. The contention of the learned counsel for the appellant was that they would become eligible pursuant to the extension in the cut off date made as per order dated 16.7.2010 and 3.2.2011. In our opinion, the submission is completely without merits. The writ petition was filed in 2011. Jhuggies have been removed on 23.6.2009. As the jhuggies having already been removed it would not be possible to carry out a physical survey to check out the veracity of the claim of the appellants being made on behalf of the jhuggies dwellers. It is a matter of fact that the survey that was carried out at the relevant time was a joint biometric survey. A similar survey is not possible. Further, there is nothing in the office orders dated 16.7.2010 and 3.2.2011 to show that they had retrospective operation. There is merit in the contention of responded No.2 that the said two orders dated 16.7.2010 and 3.2.2011 cannot have retrospective effect.

9. We see no reason to differ from the view taken by the learned Single Judge. Accordingly, the appeal is dismissed.

**(JAYANT NATH)
JUDGE**

CHIEF JUSTICE

APRIL 29, 2016/n