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

+ W.P.(C) 9579/2015

RAJESH KUMAR & ORS ..... Petitioners  
Through: Mr. Alamgir, Advocate with  
Mr. Mohammad Shadan, Advocate.

versus

GOVT. OF NCT OF DELHI & ANR ..... Respondents  
Through: Mr. Deepak Pathak, Advocate for  
respondent No.2.

**CORAM:**  
**HON'BLE MR. JUSTICE MANMOHAN**

**ORDER**  
**27.09.2016**

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Petitioners, who are residents of jhuggi Jhopri clusters at Sarai Kale Khan since twenty-five years seek electricity connections in individual names.

Learned counsel for petitioners states that a number of jhuggi jhopri dwellers in the same area have already been granted electricity connections. He seeks electricity connections for the petitioners on the ground of parity.

On the last date of hearing, learned counsel for respondent No.2-BSES had stated that the present case is covered by a Division Bench judgment of this Court in *M.S. Jadhav vs. BSES Rajdhani Power Ltd., LPA 39/2016*.

Today, learned counsel for petitioners states that the Division Bench judgment is not applicable to the present case as it did not pertain to jhuggi jhopri dwellers.

However, a perusal of the Division Bench judgment reveals that the Division Bench has clearly stipulated that in accordance with Regulation 16(i) of the Regulations an applicant can be provided a new connection only if he provides proof of ownership/occupancy i.e. (a) GPA, (b) Possession Letter, (c) Rent Receipt as proof of ownership or (d) a Lease Agreement.

The Division Bench in the aforesaid judgment also stated that he who seeks equity must do equity. Since the appellant in the said case was found to be sitting on Government property without any basis or explanation, it was held that the appellant was not entitled to any electricity connection.

In the present case, the petitioners have admittedly encroached on public land and are not in possession of any proof of ownership or occupancy documents as stipulated in Regulation 16(i).

Consequently, in view of the Division Bench judgment in ***M.S. Jadhav*** (supra), the petitioners are not entitled to any relief.

As far as the plea of discrimination and parity is concerned, the Supreme Court in ***Union of India & Ors. vs. M.K. Sarkar; (2010) 2 SCC 59*** has held as under:-

*“25. There is another angle to the issue. If someone has been wrongly extended a benefit, that cannot be cited as a precedent for claiming similar benefit by others. This Court in a series of decisions has held that guarantee of equality before law under Article 14 is a positive concept and cannot be enforced in a negative manner; and that if any illegality or irregularity is committed in favour of any individual or group of individuals, others cannot invoke the jurisdiction of courts for perpetuating*

the same irregularity or illegality in their favour also on the reasoning that they have been denied the benefits which have been illegally extended to others. (See Chandigarh Admn. v. Jagjit Singh, Gursharan Singh v. NDMC, Faridabad CT Scan Centre v. D.G. Health Services, State of Haryana v. Ram Kumar Mann, State of Bihar v. Kameshwar Prasad Singh and Union of India v. International Trading Co.

26. A claim on the basis of guarantee of equality, by reference to someone similarly placed, is permissible only when the person similarly placed has been lawfully granted a relief and the person claiming relief is also lawfully entitled for the same. On the other hand, where a benefit was illegally or irregularly extended to someone else, a person who is not extended a similar illegal benefit cannot approach a court for extension of a similar illegal benefit. If such a request is accepted, it would amount to perpetuating the irregularity. When a person is refused a benefit to which he is not entitled, he cannot approach the court and claim that benefit on the ground that someone else has been illegally extended such benefit. If he wants, he can challenge the benefit illegally granted to others. The fact that someone who may not be entitled to the relief has been given relief illegally, is not a ground to grant relief to a person who is not entitled to the relief.

(emphasis supplied)

Accordingly, the plea of negative equality is rejected. Consequently, the present writ petition, being devoid of merits, is dismissed.

**MANMOHAN, J**

**SEPTEMBER 27, 2016**

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