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

+ W.P.(C) 9558/2018

ALIYAS ALI AND ORS. Petitioners

Through: Ms Ayesha Jamal and Mr Antony R.
Julian, Advocates.

versus

THE GOVERNMENT OF NCT OF DELHI AND ANR..... Respondents

Through: Mr Anjum Javed, ASC with Mr
Devendra Kumar and Mr Faran
Ahmed and Ms Preeti, Advocates for
R-1.

Mr Parvinder Chauhan, Standing
Counsel for DUSIB with Mr Nitin
Jain, Advocate for DUSIB.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **12.09.2018**

1. The petitioners have filed the present petition, *inter alia*, praying that directions be issued to the respondent authorities to formulate a policy regarding allocation of land to establish places of worship as per the National Rehabilitation and Resettlement Policy, 2007 (hereafter referred to as 'the said policy').
2. The petitioners rely upon Paragraph 7.22.1 of the said policy in support of their claim. The said paragraph reads as under:-

“7.22.1 In all cases of involuntary displacement of four hundred families or more *en masse* in plain areas, or two hundred families or more *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Schedule V or Schedule VI to the Constitution,

comprehensive infrastructural facilities and amenities notified by the appropriate Government shall be provided in the resettlement area(s). Such facilities and amenities shall, *inter alia*, include roads, public transport, drainage, sanitation, safe drinking water, drinking water for cattle, community ponds, grazing land, land for fodder, plantation (social forestry or agro forestry), Fair Price shops, *panchayat ghars*, Cooperative Societies, Post Offices, seed-cum-fertilizer storage, irrigation, electricity, health centres, child and mother supplemental nutritional services, children's playground, community centres, schools, institutional arrangements for training, places of worship, land for traditional tribal institutions, burial/cremation grounds, and security arrangements."

3. He submits that in view of the said policy, the respondents would be obliged to provide facilities for places of worship to the petitioners, who are bonafide residents of Metro Vihar Colony, Holambi Kalan, New Delhi. She states that the said colony is a rehabilitation colony, which was established in the year 2005-2006 after removal of slum clusters from Jakhira and other parts of Delhi.

4. Mr Chauhan, learned counsel appearing for respondent no.2 (Delhi Urban Shelter and Improvement Board) submits that the said policy is inapplicable to the rehabilitation colonies established to provide alternate accommodation to encroachers and illegal occupants of public land. He submits that the said policy is only applicable in cases where persons have been involuntarily displaced on account of acquisition of land.

5. At the outset, it would be relevant to refer to Paragraph 1.1 of the said

policy, which reads as under:-

“1.1 Provision of public facilities or infrastructure often requires the exercise of legal powers by the state under the principle of eminent domain for acquisition of private property, leading to involuntary displacement of people, depriving them of their land, livelihood and shelter; restricting their access to traditional resource base, and uprooting them from their socio-cultural environment. These have traumatic, psychological and socio-cultural consequences on the affected population which call for protecting their rights, in particular of the weaker sections of the society including members of the Scheduled Castes, Scheduled Tribes, marginal farmers and women. Involuntary displacement of people may be caused by other factors also.”

6. The definition of the term ‘*affected family*’ is defined under Paragraph 3.1(b) of the said policy. In terms of the said definition, an affected family would be one which has been adversely affected by acquisition of land. A plain reading of the other paragraphs of the said policy also indicate that the reference to rehabilitation made under the said policy is in the context of rehabilitation of persons whose lands have been acquired for any public project or for any other public purpose, resulting in their displacement.

7. In view of the above, the contention that the said policy is applicable to the petitioners in question or to the residents of Metro Vihar Colony, is unmerited. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

SEPTEMBER 12, 2018/MK