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

+ W.P.(C) 7417/2019

RAM BABU SHAHA

..... Petitioner

Through: Ms Harini Raghupathy, Advocate.

versus

DELHI URBAN SHELTER IMPROVEMENT
BOARD AND ORS.

..... Respondents

Through: Mr Parvinder Chauhan and Mr Nitin
Singh, Advocates for R-1/DUSIB.

Mr Raghvendra Pandey with Mr
Sanjeev Kumar, Advocates for R-2.

Ms Shreya Sethi, Advocate for R-3.

Mr Gaurav Rohilla, Senior
Government Counsel for R-4/UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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12.07.2019

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondent no.1 (DUSIB) for rehabilitation of the petitioner in terms of the Rehabilitation Policy, 2015.

2. The petitioner states that he hails from the State of Bihar and he came to Delhi with his wife in 2005. It is stated that he settled in a Jhuggi at Rajiv Camp, I.P. Extension. The petitioner further states that the said *Jhuggi* at Rajiv Camp was demolished in the year 2010. The petitioner claims that no survey was undertaken prior to such demolition. He states that the respondents had issued some token members to some of the residents but none of them were relocated or rehabilitated. The petitioner claims that on

account of his *Jhuggi* being demolished, he moved to a rented room in Ghazi Pur, Delhi-110096. He claims that he moved back to Rajiv Camp in 2011 and reconstructed his *Jhuggi*. He further claims that the address of the *Jhuggi* remained the same; it was *Jhuggi* No. 18 prior to demolition as well as after the petitioner had reconstructed the same.

3. The petitioner claims that in October, 2016 he went to his home in village Muzaffarpur, Bihar for treatment of his wife and he returned back after leaving his family in Muzaffarpur. The petitioner also claims that he was imposed a Railway fine on 21.11.2016 which establishes that he was travelling from Muzaffarpur to Delhi on that date. According to the petitioner, the same establishes that he had returned to Delhi on 21.11.2016.

4. Admittedly, a survey was conducted by the officials of Delhi Urban Shelter Improvement Board (DUSIB) on 23.11.2016. The survey report indicates that the petitioner was not residing in Rajiv Camp on that date. The petitioner claims that his *Jhuggi* was allotted number RR-B-73 and since the officials found that the *Jhuggi* was empty and further no articles were kept there, they recorded the said *Jhuggi* as demolished.

5. The learned counsel appearing for the petitioner has relied upon the judgment of this Court in ***Sudama Singh & Others v. Government of Delhi & Anr. : (2010) 168 DLT 218 (DB)*** in support of her contention that survey should be done carefully and it is well expected that the inhabitants of the *Jhuggi* Cluster may not be available on account of their vocation. She also referred to the decision of the Division Bench of this Court in ***W.P. (C) 5378/2017*** captioned ***Udal & Ors v. Delhi Urban Shelter Improvement Board and Ors., decided on 01.08.2017***. She referred to the paragraph 33 of

the said decision and submitted that the name of the wife of the petitioner has been specifically mentioned in the said order as one of the persons whose documents were examined and on a holistic view, the same were accepted as establishing her residence at Rajiv Camp during the period 1998 till 2016.

6. Mr Chauhan, learned counsel appearing for DUSIB has contested the aforesaid contentions. He submitted that there are several inconsistencies between the averments made and the documents filed by the petitioner. He pointed out that whereas the petitioner has accepted in the petition that during the survey the *Jhuggi* stated to be occupied by the petitioner was found to be vacant and without any articles; however, in the representation filed by the petitioner, he had asserted that he was present at the time of the survey but the officials had not conducted the survey of his *Jhuggi* despite the request made by him.

7. Next, Mr Chauhan submitted that the petitioner could not claim any benefit from the order dated 01.08.2017 passed by the Division Bench in W.P. (C) 5378/2017 since no operative directions were issued to relocate the petitioner's wife. Next, he submitted that if reliance on the said judgment was to be placed, the petitioner's wife ought to have filed the present petition and not the petitioner.

8. He also pointed out that whereas the petitioner has averred that he was residing in Jhuggi No. 18, the address on the Aadhaar Card on the petitioner's wife indicates the address as *Jhuggi* No. 73 RRB, Rajiv Camp.

9. This Court is unable to accept that the petitioner has established his eligibility for being rehabilitated/relocated under the relevant policy. The

petitioner was not found residing at Rajiv Camp during the survey conducted on 23.11.2016 and this Court finds no reason to doubt the said survey. This Court had pointedly asked the learned counsel for the petitioner as to why the petitioner's wife had not filed the present petition considering that the petitioner had sought to rely upon the order dated 01.08.2017 passed in W.P. (C) 5378/2017. She had candidly responded that the petitioner's wife had gone back to her home in Bihar and was not available. In the aforesaid view, this Court is unable to accept that the petitioner can derive any benefit from the order dated 01.08.2017 passed by the Division Bench of this Court accepting the documentation provided by the petitioner's wife.

10. In view of the above, this Court is unable to accede to the prayers made in the present petition. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

JULY 12, 2019

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