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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ W.P.(C) 9470/2022 and CM APPL. 30607/2022 & 30608/2022

COURT ON ITS OWN MOTION

..... Petitioner

Through:

Versus

UNION OF INDIA AND ORS

..... Respondents

Through:

Mr. Sudhir K. Makkar, Sr. Advocate  
(Amicus Curiae) with Ms. Veera  
Mathai, Advocate.

Mr. Anurag Ahluwalia, CGSC and  
Mr. Abhigyan Siddhant, GP with Mr.  
Punit Tripathi, Legal Consultant for  
R-1.

Mr. Prashant Manchanda, ASC with  
Mr. Angad Singh, Ms. Nancy Shah  
and Ms. Jaya Shree, Advocates for  
respondent/GNCTD.

Mr. Parvinder Chauhan, Standing  
Counsel with Ms. Mahima Anand and  
Ms. Aakriti Garg, Advocates for  
respondent/DUSIB.

Mr. Aditya, Mr. Kamlesh Kumar  
Mishra, Mr. Bibhuti Bhushan Mishra,  
Mr. Dipak Raj and Mr. Kailash  
Kumar Jha, Advocates for Intervenor.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**18.09.2023**

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1. In a batch of cases examined by a Single Bench of this Court, relating to unauthorized occupants of jhuggis and dharamshalas near the Kalkaji



Mandir, New Delhi,<sup>1</sup> it was observed that approximately 52,000 flats, designated for slum dwellers or the ‘urban poor’ at affordable rates under the Jawaharlal Nehru National Urban Renewal Mission [“JNNURM”] initiated in December 2005, remain unconstructed or unallotted. Prompted by this finding, on 15<sup>th</sup> March, 2022 in FAO 36/2021 and connected matters, the Court ordered the Secretary of the Ministry of Housing and Urban Affairs [“MoHUA”], Government of India and the Chief Secretary of the Government of NCT of Delhi [“GNCTD”] to jointly submit a status report, detailing the progress of JNNURM. On the basis of the report so received, present *suo motu* public interest litigation was initiated.

### The Joint Status Report

2. The joint status report, submitted on 01<sup>st</sup> June, 2022, brings forth the following:

2.1. The Ministry of Urban Employment and Poverty Alleviation, Government of India, launched the JNNURM in 2005, with an aim to augment the urban infrastructure, enhance access to civic amenities to the urban poor, and introduce accountability in governance. This policy envisages collaboration between the Central and State Governments, through the Urban Local Bodies of the designated cities. In the NCT of Delhi, MoHUA, Government of India executed a Memorandum of Agreement [“MoA”] with the GNCTD for implementation of the JNNURM.

2.2. In furtherance of the MoA, a detailed project report was formulated, sanctioning construction of 52,344 houses under 14 distinct projects, at the estimated cost of Rs. 2,415.82 crores. Of this amount, the Central

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<sup>1</sup> FAO 36/2021, CS(OS) 641/2005 and CS(OS) 642/2005.



Government was to invest Rs. 1,108.85 crores, while the shares of State Government and beneficiaries were fixed at Rs. 992.9 crores and Rs. 314.07 crores, respectively. Originally set to continue till 2012, the scheme was extended till 31<sup>st</sup> March, 2017, within which timeframe, the Central Government released Rs. 1,074.12 crores to the State Government. As per the arrangement, houses which remained incomplete after 31<sup>st</sup> March, 2017, were to be constructed by the State Government, with own resources. The position, as on the date of filing of the report (01<sup>st</sup> June, 2022), is encapsulated as under:

<b>Total Houses Approved</b>	<b>Total constructed houses</b>	<b>Houses already allotted</b>	<b>Houses under construction</b>	<b>Houses ready to shift within 3 months</b>
52,344	35,744	4,833	16,600	2,086

2.3. The above-noted reflects that 30,303 houses, ready for allotment, are vacant in Delhi. This situation has purportedly arisen as eligible beneficiaries have not expressed any interest or raised a claim. Notably, several of the houses already constructed lack civic amenities, such as water and electricity supply, sewage plants etc.

2.4. Meanwhile, Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015 [“Rehabilitation Policy, 2015”] was notified by GNCTD, which empowers the Delhi Urban Shelter Improvement Board [“DUSIB”] to remove jhuggi-jhopri bastis, with appropriate relocation and rehabilitation arrangements. In addition, land-owning agencies, who seek to reclaim their lands occupied by jhuggi-jhopri owners, can approach DUSIB for their relocation as per the prescribed procedure.

2.5. Considering the increased requirement of rental housing for urban



migrants, caused by the COVID-19 pandemic, on 08<sup>th</sup> July, 2020, Government of India launched Affordable Rental Housing Complexes [“ARHCs”] under the Pradhan Mantri Awas Yojana-Urban Scheme for provision of rental accommodation equipped with basic amenities, to them. The houses constructed under the JNNURM have also been designated for allocation as ARHCs. A MoA for this purpose is yet to be executed between the Central Government and GNCTD.

GNCTD and DUSIB’s stand

3. A joint affidavit has been filed by DUSIB and GNCTD on 17<sup>th</sup> August, 2022, highlighting the following aspects:

3.1. *Vide* Cabinet Decision Nos. 1263 and 1271 dated 20<sup>th</sup> August and 03<sup>rd</sup> September, 2007, respectively, the Delhi State Industrial Infrastructure Development Corporation [“DSIIDC”] has been endowed with the responsibility to construct 18,084 houses at six locations identified under the JNNURM to aid rehabilitation/ relocation of jhuggi-jhopri bastis.

3.2. As per Section 3(2) of the National Capital Territory of Delhi Laws (Special Provisions) Act, 2007, steps initiated in respect of encroachments or unauthorized developments, colonies, village abadi areas etc., have been kept in abeyance during the subsistence of the aforesaid Act. However, the provisions of the Act have been re-notified and are to remain in force up to 31<sup>st</sup> December, 2023, owing to enactment of the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2020. These provisions have caused the delay in construction and allotment.

3.3. The lag in allotment can also be attributed to the lack of references from land owning agencies to DUSIB, in terms of the Rehabilitation Policy,



2015.

3.4. Given that the flats in question have been designated for allotment as ARHCs as also to the urban poor, the procedure for allocation is vague and unclear. The MoHUA, Government of India issued a circular on 31<sup>st</sup> December, 2020, directing the State Government to allot the remaining houses constructed under JNNURM and Basic Services to Urban Poor Scheme, to eligible beneficiaries of the ARHC initiative. As a consequence, the 9,104 flats that were committed to the jhuggi-jhopri dwellers, have to be now allocated as ARHCs. Multiple communications were addressed to the MoHUA, Government of India by the Hon'ble Lt. Governor, Hon'ble Chief Minister and Chief Secretary of NCT of Delhi, as well as DUSIB seeking reconsideration of the aforesaid circular and for approval to utilize these units for beneficiaries of the JNNURM/ Rehabilitation Policy, 2015. However, the MoHUA has maintained its stand, thereby restricting DUSIB from proceeding with allotment of the constructed units, as has also been directed by this Court on several occasions.

3.5. The non-execution of a MoA between the Central Government and GNCTD in respect of ARHCs, and failure to formulate a concise policy for allotment, have resulted in non-utilization of 9,104 flats, which have already been constructed.

#### Observations and directions

4. We have heard Mr. Anurag Ahluwalia, Mr. Parvinder Chauhan, learned counsel for Union of India and DUSIB, respectively, and also Mr. Sudhir Makkar, *Amicus Curiae*, and have also carefully perused the record. From the joint status report, one can discern a layered complexity in the



administrative procedures and their execution. The JNNURM, launched in 2005, had the noble aim of bettering urban infrastructure and improving the lives of the urban poor. Over time, the essence of this mission has been diluted. For example, the sanctioned project of constructing 52,344 houses with estimated cost of Rs. 2,415.82 crores saw the Central Government committing Rs. 1,074.12 crores till 31<sup>st</sup> March, 2017. Despite such investment, the report indicates that a significant number of the houses remain unconstructed or unallotted. Furthermore, the GNCTD's Rehabilitation Policy, 2015, designed to address the removal of jhuggi-jhopri bastis and offer relocation of their inhabitants to the flats in question, also seems to be in a state of limbo. The DUSIB cites "lack of references from land owning agencies" as one of the reasons. The non-execution of a MoA concerning ARHCs and the absence of a coherent policy for allocation, has further exacerbated the issue, resulting in the non-utilization of 9,104 flats. The joint affidavit filed by DUSIB and GNCTD further highlights the internal complexities and bureaucratic delays. With DSIIDC being endowed with the responsibility to construct over 18,000 houses, the subsequent re-notification of provisions of the National Capital Territory of Delhi Laws (Special Provisions) Act, 2007, to remain effective till the end of 2023, seems to be one of the primary causes of delay in construction and allotment.

5. The present state of affairs, evidenced from the documents provided and the stands taken by both, the Union Government and GNCTD, resemble a stalemate or, more appropriately, a logjam. There is a noticeable disconnect between the Union Government and the GNCTD, with both parties seemingly keen to advance their respective welfare schemes, even if



it is at the cost of the primary objective. The progression towards the targeted goal is almost stagnant. However, the Court's main concern here is the beneficiaries – the urban poor, who continue to be marginalized. They stand deprived of housing and shelter, an essential component for dignified living. It deeply saddens the Court to witness such a situation. The DUSIB, which operates under the GNCTD, shoulders an immense responsibility in this regard. It has the duty to rehabilitate many individuals displaced from jhuggi-jhopri clusters, some of whom have already fulfilled their financial obligations towards their entitled allotments under the JNNURM, but are left hanging, devoid of a resolution.

6. The continual suffering of the eligible beneficiaries is not just unfortunate, but also a grave injustice. Given these considerations, it is paramount that the two Governments who joined hands to implement the scheme, set aside their differences, and collaborate to reach a consensus. In light of the above, we strongly recommend the constitution of a High-Powered Committee encompassing all stakeholders, namely representatives from the MoHUA, Government of India, Delhi Development Authority, DUSIB, and the GNCTD. This Committee's core objective should be to expedite the process and find a harmonious resolution, keeping the best interests of beneficiaries at the forefront.

7. It has further come to our notice that due to the delay and inevitable decay of infrastructure caused by non-use, some of the constructed houses require immediate repairs. It is imperative that the GNCTD formulates a robust action plan, ensuring not just the completion of pending construction, but also addressing the repair needs of the already constructed houses. Additionally, concerns regarding the reluctance of eligible citizens to



occupy these homes, primarily due to the absence of basic civic amenities, have been raised before us. Thus, it becomes crucial to involve all pertinent agencies to ensure that the constructed houses are well-equipped with essential facilities, such as consistent water supply, proper sewage systems, electricity etc.

8. In conclusion, as welfare and betterment of citizens are fundamental for every governing body, it is the duty of these bodies to work in tandem. The aim should always be the collective good, ensuring that the rights and needs of the most vulnerable sections of society are never overshadowed by administrative differences.

9. Accordingly, following directives are issued:

9.1 A High-Powered Committee comprising of Secretary, MoHUA, Government of India, Vice-Chairperson, Delhi Development Authority, Chairperson, DUSIB, Principal Secretary, GNCTD, Chairperson, Delhi Jal Board, and Chairperson, DSIIDC, shall be established immediately. This Committee will be tasked with streamlining the process of house allotment to eligible beneficiaries. Immediate steps should be taken for allotment of 9,104 constructed flats to the eligible beneficiaries. The Committee members shall be authorized to co-opt additional officers from concerned governmental divisions or departments, as deemed necessary to efficaciously implement the directives.

9.2 The Committee will chalk out a clear and concise policy for the allocation and allotment of houses, particularly addressing the concerns raised about ARHCs and the Rehabilitation Policy, 2015. Priority must be given to those who have already paid their dues and those who are in dire need of shelter.





9.3 The Committee shall also supervise the remaining construction and repair work, with an emphasis on collaboration and clear and actionable outcomes. The GNCTD is directed to immediately formulate and present an action plan to the Committee, detailing the timeline and methodology for the completion of the balance construction and repair work.

9.4 Relevant agencies are mandated to ensure that all houses are equipped with essential civic amenities, including water, sewage, and electricity. The Delhi Jal Board is tasked with the responsibility to ensure sewerage connections and water supply. The concerned electricity supply company shall also be involved for ensuring laying of electricity cables. A report detailing the action taken should be submitted to this Court within three months from the release of this order.

9.5 A sub-committee or a dedicated team should be instituted to engage with potential beneficiaries. Their concerns, particularly about the lack of amenities, should be addressed, ensuring that the houses are not just structures but truly homes for the urban poor.

9.6 The High-Powered Committee shall endeavour to hold the first meeting within 15 days of the release of this order and continue to hold further meetings as and when required. They shall present a bi-monthly report to this Court, detailing the progress made in each area outlined above.

9.7 To address the purported lack of interest from eligible beneficiaries, a targeted public awareness campaign must be launched, informing them of the availability of houses and the process of application.

10. The Court sincerely hopes that these directions will pave the way for a resolution to this prolonged issue, ensuring that the urban poor of our society are not left waiting in the shadows, but are provided with the homes that



they rightfully deserve. We expect strict compliance with these directions and await positive reports on progress in the coming months.

11. List on 18<sup>th</sup> December, 2023 for reporting of outcome and further directions.

**SATISH CHANDRA SHARMA, CJ**

**SANJEEV NARULA, J**

**SEPTEMBER 18, 2023**

*as*

*(Corrected and released on 19<sup>th</sup> October, 2023)*