

Sanchal Foundation Vs. Delhi Development Authority and ors

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Court : Delhi

Decided On : Apr-17-2013

Judge : D.Murugesan,Chief Justice

Appellant : Sanchal Foundation

Respondent : Delhi Development Authority and ors

Judgement :

\$~19. * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 790/2012
SANCHAL FOUNDATION Through: Petitioner Ms.Jayashree Satpute, Adv.
Versus DELHI DEVELOPMENT AUTHORITY & ORS Respondents Through:
Mr.Ajay Verma, Adv. for DDA. Ms.Shawana Bari, Adv. for Mr.Rajiv Nanda, Adv. for
GNCT of Delhi. CORAM: HON'BLE THE CHIEF JUSTICE HON'BLE MR.
JUSTICE JAYANT NATH % 1. ORDER 17 04.2013 This pro bono publico petition
filed by the petitioner, Sanchal Foundation seeks for the following reliefs: i. Issue a
writ of Mandamus or any other appropriate writ, order or direction to Respondent
no.1 (DDA) to forthwith rehabilitate all of the families in the list of 94 that have
documents establishing residency prior to 31 Dec 1998, including the 68 the DDA
has already agreed possess such documents. Rehabilitation should include the
allocation of plots at Bawana, along with ensuring that all services and community
infrastructure is available. ii. Issue a writ of mandamus or any other appropriate
writ, order or direction to Respondent no.1 (DDA) to forthwith decide by way of a
reasoned order (which is communicated to the jhuggi dweller in writing and a
receipt thereof taken, with copies thereof sent to the Petitioner no.1 as directed by

the Honble LG Delhi), and in accordance with the criteria set out in the DDA Policy (Annexure P-3), the Suggested Protocol (Annexure P-41, the Delhi High Court decision in Sudama Singh (supra), and the Supreme Court decision in Lal Babu Hussein (supra), the rehabilitation eligibility cases of all the other 650 jhuggi dwellers formerly of Banuwal Nagar, Pragati Market, Sunshine Apartments, Sanjay Gandhi Camp, Sawan Park, Kela Godam, J Block and other sites mentioned in various correspondence between the Petitioner and Respondent, who were evicted and who now live near Bawana; and further, to rehabilitate all these applicants by allocating plots to those found eligible within 6 months from today. iii. Pass an order directing an investigation into past improper actions during the Banuwal Nagar and Pragati Market evictions and subsequent relocation denials, including allegations of corruption, the repeated and deliberate refusal to grant residents their proper relocation allotments, and the recent 21 October, 2011 demolition of residents at Bawana. Penalties should be given in cases where parties are found to have deliberately. iv. Pass an order directing Respondent DDA and LG to complete the inquiry into allegations of corruption against M S Chopra with respect to the 54 complaints filed against him and mentioned in the 14 June 2010 letter (Annexure P-17), and complete the investigation within 3 months and punish him in accordance with law. v. An order directing the Respondents to follow, from now on, the criteria laid down in the Delhi High Court Judgment of Sudama Singh (Supra) and the Supreme Court judgment in Lal Babu Hussein (Supra) and the Suggested Protocol For Rehabilitation, Eviction or Demolition (Annexure P-41) in the case of all jhuggi dwellers in Delhi, particularly with respect to, but not restricted to the following: a. Accept any bona fide form of evidence of residence when making residence-based eligibility determinations, per the Lal Babu Hussein order. b. Refrain from evicting or demolishing houses until all rehabilitation determinations have been properly made and eligible residents have been properly relocated. This should include allowing the residents to present all relevant information and have that information properly heard, in order to contest an initial determination of ineligibility. c. Explain what public interest they believe necessitates evicting these families from the homes they have been living, and allowing the residents a proper venue to challenge the factual and logical basis for this determination before the eviction is carried out. d. Refrain from any

future evictions or demolitions that are not accompanied with a proper order, posted at the relevant site, authorizing the eviction or demolition which includes an affidavit that all proper procedures have been followed. Such an order should include penalties for any officer that authorizes such an eviction or demolition without following all proper procedures, as well as penalties a proper order. e. Ensure that all basic services, including water, power, sanitation, education and health services, are available at relocation sites prior to evictions. f. Ensure that relocation sites are as close to the original sites as possible, and that communities are not split up as part of relocations, to minimize the disruption of social networks and employment. vi. Pass an order directing Respondent No.2 to conduct a door to door survey of the residents without allotments at Bawana following the abovementioned procedural requirements listed in the Sudama Singh (Supra) and P.K.Koul (Supra) orders to ensure that all other eligible residents are included.

2. The grievance of the petitioner appears to be that for several years as many as 94 families whose names are shown in the list annexed with the petition were residing in Bawana, Banuwal Nagar and Pragati Market along with a large number of families. As these families were sought to be evicted, they wanted rehabilitation. Since such rehabilitation was not made in respect of 94 families, the petitioner seeks for a direction in respect of prayer (i) to rehabilitate all of the 94 families in the list who have produced the documents to establish residency prior to 31.12.1998.

3. Learned counsel appearing for the Respondent/DDA has submitted that in fact in the places in question 1435 squatters have been identified and they have been rehabilitated. However, 94 squatters were found ineligible for such rehabilitation. Thereafter the matter was again re-considered at the level of Lieutenant Governor and further 20 squatters were found eligible leaving 74 ineligible.

4. As far as the relief for the remaining 74 families are concerned, it is not for this Court to go into the details as to the eligibility in these proceedings, as it would be only in the realm of the authorities to find out their eligibility on the basis of documents. Though the respondent/DDA has taken a stand that all eligible squatters have been already rehabilitated and the 74 families whose names are

shown in the list are found ineligible, we are of the considered view that in view of their grievance that they had been living there for quite number of years, their grievance may be addressed by the respondents by once again making such verification.

5. In view of the above, as far as prayer (i) is concerned, we direct the respondent/DDA to revisit the claim of the 74 families by making one more exercise for verification and if any family is found eligible they can consider them for rehabilitation as per the policy in vogue.

6. As far as prayer (ii) for rehabilitation of 650 jhuggi dweller in Banuwal Nagar, Pragati Market, Sunshine Apartments, Sanjay Gandhi Camp, Sawan Park, Kela Godam, J Block and other sites are concerned, for want of any details, we are not inclined to issue any direction except again permitting the petitioner to furnish the details of those Jhuggi dwellers before DDA for consideration. In the event, such request is made, the DDA has to consider it by making necessary inspection and then decide as to whether any of the 650 jhuggi dwellers are eligible for rehabilitation as per the policy in vogue.

7. As far as the decision in respect of 74 families is concerned, the DDA is directed to take such decision within a period of six weeks. As far as direction relating to 650 jhuggi dwellers are concerned, the same shall be complied with within three months from the date of the receipt of the request with details from the petitioner/jhuggi dwellers.

8. With the above direction, the petition is disposed of.

9. During the pendency of the writ petition, the petitioner has also taken out an application (C.M. No.4710/2013) wherein the petitioner has made a grievance that during the pendency of the writ petition a fire broke out in the slum cluster on 13.04.2013 around 1:30 a.m. and almost 800 slums were burnt to ashes in not less than 30 minutes. In the said fire, 4 children and 1 woman lost their lives leaving several injured. Hence, the petitioner seeks for a direction to provide food, water and medical help to the said 800 slum dwellers.

10. Insofar as the said relief is concerned, the State is obliged to look into the said grievance and provide water and medical assistance and to some extent food as well to those who suffered due to fire. We, therefore, direct the Government of NCT of Delhi to take immediate steps to provide the above facilities to the said slum dwellers without any further loss of time. This direction would be as in interim arrangement as the victims should not be made to suffer. However, we make it clear that this direction shall not be construed as one of recognizing the eligibility of those persons for rehabilitation as sought for in the writ petition.

11. With the above direction, C.M.No.4710/2013 is also disposed of. CHIEF JUSTICE JAYANT NATH, J APRIL 17 2013 and

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