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

Date of Decision: 10th February, 2023

+ **W.P.(C) 1726/2023 & CM APPL.6541-42/2023**

KESHAW SANYASI GAWO SHEWASHARAM Petitioner

Through: Mr. Mimansak Bhardwaj, Advocate.
(M:8800177082)

versus

GOVERNMENT OF NCT,
NEW DELHI AND ANR.

..... Respondents

Through: Mr. Anuj Aggarwal, ASC, GNCTD
with Ms. Ayushi Bansal, Mr. Sanyam
Suri and Ms. Arshya Singh,
Advocates for R-1 & 2.
(M:9891363718) with Mr. Virender
Kumar, Executive Engineer of PWD
in person.

Mr. Parvinder Chauhan, Advocate for
DUSIB with Mr. Prakash Deep, Legal
Asstt. of DUSIB.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The case of the Petitioner- Keshaw Sanyasi Gawo Shewasharam is that it is a registered trust and is running a cow shelter and *mandir* at Bhairon Marg. The challenge of the Petitioner in the instant petition is to the impugned notice of eviction bearing no. S23 (ROAD)/S.B.A. MANDAL M-321/166 dated 28th January, 2023 issued by the Public Welfare Department which reads as under:

*“All you slum dwellers Bhairo Marg, Opposite Gate
No.1, Pragati Maidan are informed to voluntarily*

demolish your slum within 15 days of information phase, otherwise, your slum will be removed with the help of police and Will be sent to the shelter home (Dwarka, Geeta Colony) identified by the Delhi Urban Improvement Shelter Board (DUSIB), in which the maximum period of stay will be 03 months.”

3. It is the case of the Petitioner that it is involved in taking care and looking after old, ailing, and abandoned cows in a Gaushala. The Gaushala of the Petitioner is situated upon the land in respect of which the impugned notice dated 28th January, 2023 has been issued by Respondent No.2.

4. It is the case of the Petitioner that the said Gaushala has been existing on the said land for the past 15 years. The Petitioner has electricity connection installed, and the Aadhaar card of the Chairperson of the Petitioner has been issued in respect of the said premises only.

5. It is the submission of the Id. Counsel for the Petitioner that the impugned notice has been issued without any show cause notice or providing any hearing to the Petitioner.

6. Ld. counsel for the Respondents, including Id. Counsel for DUSIB, have entered appearance. Mr. Chauhan, Id. Counsel for the DUSIB, upon a specific query from the Court as to whether the JJ cluster at Bhairon Marg is a notified cluster under the Policy or not, states that the Petitioner's jhuggi cluster does not belong to notified clusters, which are 675 and 82 in number.

7. Mr. Chauhan, Id. Counsel, also relies upon the recent order passed by this Court in *W.P.(C) 1386/2023* titled *Kash Ram v. Public Works Department, GNCTD* where the Court had directed demolition of jhuggis in the Dhaula Kuan area, subject to certain conditions.

8. Heard. It is now the settled position in law that until and unless the jhuggi clusters are duly notified, stay on demolition would not be feasible.

9. This position of law has recently been reiterated by this Court in *Shakarpur Slum Union v. DDA*, [W.P.(C) 6779/2021, decision dated 2nd August, 2022,] wherein the Court held as under:

*“37. This Court while dealing with Ajay Maken (supra) and Sudama Singh (supra) never gave any licence to any person to encroach upon Government property. However, this Court is dealing with a human problem and right to shelter has been described as right which has to be protected by Courts especially for those who will have no place to go with their family and belongings if they are faced with mid-night demolitions. In order to ameliorate the human problem, this Court in Sudama Singh (supra) had directed that the State Government must formulate a comprehensive protocol to ensure that persons who have encroached upon Government lands are not rendered shelter-less and, therefore, a rehabilitation policy has to be brought out to rehabilitate those persons. It was in pursuance of that judgment that DUSIB was made the nodal agency for rehabilitation of the persons living in JJ clusters. Parameters were laid down as to who would be entitled to the benefit of the DUSIB Policy. **The judgment of this Court in Ajay Maken (supra) cannot be interpreted to mean clusters not identified by the DUSIB would be entitled to rehabilitation.***

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42. Resultantly, the instant writ petition is disposed of with a direction to the DDA to carry out further demolition only in consultation with the DUSIB. The DDA is further directed to give sufficient time to the dwellers to make alternate arrangements or, alternatively, steps should be taken to accommodate the dwellers in the shelters provided by the DUSIB for

three months so that the persons, whose jhuggis are being demolished, are able to find some alternate accommodation. Pending applications, if any, also stand disposed of.”

10. In view of the fact that the impugned eviction notice itself identifies the alternative accommodation which is to be given to the Petitioner i.e., shelter home in Dwarka, Geeta Colony, it is directed that the reliefs sought by the Petitioner would not be liable to be granted.

11. However, considering that there are some cows which are in the premises of the Petitioner, an alternate shelter home for the cows shall also be provided by the Respondents within a week. Thereafter, the Respondent authorities will give the Petitioner a period of one week for moving to the shelter home.

12. It would be the responsibility of the Respondent authorities to ensure that the basic amenities at the relocated shelter home are duly made available for the Petitioner.

13. It is further clarified that the condition of maximum period of stay of three months shall not be applicable to the cows, which are to be moved to the alternate cow shelter.

14. The petition, along with pending applications, is disposed of in the above terms.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 10, 2023/dk/sk