

**(2002) 09 DEL CK 0103**

**In the Delhi High Court**

**Case No :** CWP No's. 2857 of 1989, 531/90, 3349 of 1992, 267, 268, 405, 2403, 2305, 2585 and 4349 of 1993, 138, 1222, 1564, 4826 and 4878 of 1994, 1983, 2228, 2259, 4215 and 4872 of 1995, 411, 1365, 2207, 2241, 2749, 2929, 2957, 4019, 4113, 4114 and 4229 of 1996, 2

Pitam Pura Sudhar Samiti

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

**Date of Decision :** 27-09-2002

**Acts Referred:**

Constitution of India, 1950 — Article 21

Delhi Development Act, 1957 — Section 7, 8

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 5A(2)

**Citation :** (2002) 09 DEL CK 0103

**Hon'ble Judges :** S.B. Sinha, C.J.;A.K. Sikri, J

**Bench :** Division Bench

**Advocate :** Prashant Bhushan, K. Venkatraman, S.K. Raut, in CWP No. 2403/93, Ashok Aggarwal, in CWP Nos. 3748/99 and 4872/95, S.V. Sonware and Anuradha Rustagi, in CWP No. 271/97, &nbsp; Anand Yadav, in CCP No. 224/96 and CWP Nos. 2585/93 and 4215/95, Suman Dayal, in CWP Nos. 2776 and 3013/97, Jagdish Singh, in CWP No. 2305/93, Promila Kaul, in CWP Nos. 3394/92 and 405/93, K.B. Hina, in CWP Nos. 7825-7828/99, 59-60/2002 and 72/2002 and K.K. Buchar, Member of the Committee in perso, for the Appellant; Rakesh Munjan and V.K. Shali, for NCT of Delhi, Hima Kohli, for NDMC, Anil Grover, for MCD in CWP Nos. 59-60, 72 and 6553/2000, 6661 and 4721/2001, 511, 937, 1230 and 2007/98, 775, 7825 and 7826-28/99, 4113/96, 138, 1564, 4826 and 4878/94, 4872/95, 2228, 2259, 411, 1365, 2207, 2241, 2749, 2929, 2957, 4019 and 4114/96, 271, 338, 531, 2776, 3013 and 3041/97 and 267/93, Kajal Chandra, for DDA in CWP No. 2957/96, Rajesh Mahajan, for DDA in CWP No. 3225/97, Maninder Singh, for UOI in CWP No. 59/2000, Geeta Luthra, for Urban Development Ministry, Mithun Barasalay, for Zubeda Begum, for respondents 5 and 6 in CWP No. 271/98, G.S. Sistani, for R-4 in CWP No. 6553/2000, Neelima Tripathi, for DDA in CWP No. 3225/97, Avnish Ahlawat, for GNCTD in CWP Nos. 2403/93, 1222/94, 511, 937 and 1230/98, Alok Kumar, for Health Deptt. GNCTD in CWP No. 6553/2000, Deepak Khadaria, for DDA in CWP Nos. 7825-7828/99, 72/2000 and 59-60/2000, Jayant Nath and R.C. Pandey, for DVB in CWP Nos. 6553/2000, 4372/95, 5185/98 and 4229/96, Rakesh Munjal and Arjun Pant, for DDA in CWP No. 6553/2000, Shubhangi Tuli, for MCD in CWP No.

4113/96, Rakesh Tiku, for Railways in CWP No. 4721/2001, Gita Mittal, for DDA in CWP No. 4113/96, 1564 and 4826/94, 2259 and 4872/95, 2207 and 2241/96, 4019/96, 2776/97, 3041/97, 5228/98, 1714/99, 267-268 and 2585/93, 1983 and 4215/95 and 4229/96 for Delhi Jal Board in CWP No. 6553/2000 and Anand Yadav in CWP No. 4229/96, for the Respondent

**Final Decision :** Dismissed

---

## Judgement

A.K. Sikri, J.—All these Writ Petitions are filed by way of Public Interest Litigation. The matter raised in these Petitions of course is of public importance. However, the claims in these Petitions are conflicting in nature. The issue involved is about the existence/removal of the Jhuggi Jhopri Clusters in Delhi (hereinafter referred to as JJ Clusters, for short) and their rehabilitation. These Petitions can be classified in two categories, in one set of petitions, the petitioners have highlighted the problem of existence of JJ Clusters and have prayed for removal thereof. These Petitions are mostly filed by various resident associations of colonies alleging that after encroaching the public land, these JJ Clusters have been constructed in an illegal manner and they are causing nuisance of varied kind for the residents of those areas. The other set of petitions are filed by or on behalf of JJ Clusters who either want to continue in the same clusters and demand better facilities or are claiming their rehabilitation.

2. For the sake of convenience facts of two Petitions, one of each kind, is noted. In so far as Petitions filed under the first categories are concerned, we shall take stock of the factual matrix bearing in CWP No. 531/90 entitled K.K. Manchanda v. Union of India and in the case of CWP No. 4215/90 wherein the petitioners have echoed almost similar problem, which was even otherwise treated as the lead case. To have the glimpse of other side we shall take stock of the factual position stated in CWP 4229/96.

3. Shri K.K. Manchanda, is the resident of Ashok Vihar, New Delhi and is the President of Ashok Vihar Residents Sufferers Associations. He has stated in this Petition that there has been a misuse of green belt at blocks C and D. Ashok Vihar, as an "open public lavatory", by the residents of JJ clusters, is situated in the said vicinity. It is stated that in front of blocks C and D of Ashok Vihar, Phase I, there is a big ground earmarked as "Green Belt" by the Delhi Development Authority (hereinafter referred to as DDA, for short). This part of green belt/community park is undeveloped till date and no action is taken to construct a park and beautify the said piece of land. The said plot although earmarked as green belt-community park remains a barren piece of land. Adjacent to this Green Belt, there is a railway line, operating from Azadpur towards Zakhira junction and across this Railway Line, there are large number of Jhuggi/jhopri situated in the said vicinity, wherein about 8000-10,000 people are habited for the past 3-4 years, who work in the nearby factories and earn their livelihood. There being no provision of public toilets for the the people residing in these

jhuggies as a result these people make use of this Green Belt for casing themselves throughout the day. This has caused untold miseries to the residents living in Blocks C and D. It has proved not only a health hazard to the locality but has also transgressed their right to decent living. People desirous of having morning walk cannot do so as these dwellers easing themselves pose such uncultured scene. Besides young girls do not come to their own balconies throughout the day as obnoxious smell pollute the atmosphere and the entire environment is uncondutive to public health and morality.

4. It is also stated that in spite of various representations to almost all the authorities of the matter, no concrete steps have been taken either to develop the park and stop the user thereof as public lavatory by constructing toilet like sulabh sauchalaya for these areas. He further states that the Vice Chairman, DDA had visited the premises in the year 1988 when the following decisions were taken.

(a) 75% of the Green Belt area would be kept as "Protected Area" and would be developed into a "beautiful garden".

(b) Jhuggi dwellers would be restricted across the Railway line with latrine facilities.

(c) Four or five chowkidars will be provided on permanent basis to keep the area clean.

5. However, in spite of various assurance given no concrete steps were taken with the result that the residents of the colonies are undergoing innumerable sufferings. In these circumstances, the petitioner approached this Court way back in 1990 by filing the present Writ Petition. This Writ Petition was disposed of vide Order dated 19th August, 1992 wherein other measures were set out in order to ensure that the park is not used by the JJ clusters for defecation.

6. However, when the problem still persisted the petitioners filed CM.7896/99 for continuing the matter for finding a permanent solution to the problem. During this period, various other writ petitions were filed bringing to the fore the problem of JJ clusters in various other areas. It was, Therefore, considered appropriate to find a lasting solution to such problems.

7. CWP No. 4215/90 and other petitions filed on behalf of Resident Welfare Associations raise similar problem. On the other hand, CWP. No. 4229/90 is filed on behalf Residents of Durga Camp JJ clusters and Sanjay Camp JJ clusters. They are seeking basic civic amenities for the residents of these clusters. Giving their version of the problem the Petition states that tin the last few decades, on account of the pressure on agricultural land and lack of employment opportunities in the rural areas, a large number of people have been forced to migrate to cities, especially to large cities like Delhi. It can be submitted that on the average about 1.75 lakh new migrants settle down in a year in the Jhuggi clusters of Delhi alone. The jhuggi dwellers constitute about 25% of the total

population of the city. They supply the major work force, from manual jobs both in the domestic and commercial fields to most skilled jobs in the industrial sectors, making a significant contribution to the economic life of the city. Thus, they are an essential element in the city's overall life and are useful for its proper and orderly functioning as any other segment of its population. The problems of the people living in jhuggi colonies of Delhi are many and severe. Though MCD had made efforts, it had not fully succeeded in providing even minimum basic amenities like potable water, drains, electricity, jansuvidha, etc. In the absence of these elementary requirements, the residents have no option but to drink contaminated water from shallow hand pumps. Absence of proper drains in the JJ clusters and the choking and blocking of sewer lines of the developed areas that lie near or below their hutments lead to the formation of big pools of stinking stagnant water which become a breeding ground for mosquitoes, endangering their health. The situation becomes worse in the rainy season as rain water and overflowing dirty sewer water enters their huts due to poor or non-existent outlets. Also, in the absence of jansuvidha facilities, these people in many such areas are forced to use lonely pavements, side roads and adjoining streets for casing themselves.

8. These Petitions also resort to various policy decisions announced by the Government for relocation of the JJ clusters, institute upgradation of JJ clusters and extension of minimum basic civic amenities for community use under the scheme of environmental improvement in JJ cluster and alleges that in spite of these policy decisions, the same are not implemented with all earnestness with the result that there are not basic facilities including water, sanitation, electricity etc. Although, according to the petitioner, it is the Constitutional obligation of the State to guarantee every citizen his right under Article 21 of the Constitution which includes the right of shelter and basic facilities to enable each citizen to live his life with minimum human dignity.

9. Various Orders were passed and directions given therein from time to time. These directions related to the particular problem faced in respect of the park in question as would appear from Orders dated 23rd August, 1999 and 16th September, 1999 as well as from Orders passed thereafter. However, as writs of this nature kept pouring in, the larger issue of removal of unauthorized JJ clusters from public land which were in the vicinity of various residential colonies was taken up. Various Orders in this case as well as in other batch matters, would reveal that the problem of relocation of these JJ clusters was addressed to. One may fruitfully quote the Order dated 7th February, 2001 passed in this Writ Petition :

"Learned counsel for the petitioners submits that as per the policy of the Delhi Government, the jhuggi dwellers need to be re-located for which purpose land and money is to be provided by the authorities. However, learned counsel for the Railways say that the railways have no such policy.

In case the jhuggi dwellers of Wazirpur area are to be relocated, in that event,

the Government of NCT of Delhi will have to earmark some land for them and apprise us about the same on the next date. We understand that in Bombay, one Mr. A. Jockin, who himself is a shack dweller has taken in hand, projects for constructing multi storeyed buildings for jhuggi dwellers. Each of the jhuggi dwellers who contributes to the project is allotted a unit comprising of a room, kitchen and a bath room in a multi storeyed building. We also understand that some buildings have already been constructed and jhuggi dwellers have moved into them. There are reports to the effect that the experiment has succeeded to a great extent. In this regard, we would like to have the views of the members of the Coordination Committee constituted by us in writ petition No. 6553/2000 on 30th November, 2000.

List the matter on 16th February, 2001. The Chairman HUDCO, Chairman Rites and the members of the Committee appointed in C.W. No. 6553/2000 should be present on the next date. These authorities should find out the details of the experiment which has been conducted in Bombay. Mr. Aggarwal, learned counsel for the petitioner shall give the necessary details of the projects which have been undertaken in Bombay."

10. Since this Coordination Committee was appointed in CWP No. 6553/2000 by Order dated 30th November, 2000 it would be apposite to reproduce this Order also :

"Heard in part.

Pursuant to our order dated November 16, 2000. Secretary, Urban Development, Government of India; Principal Secretary, Government of NCT of Delhi; Secretary, Urban Development, Government of NCT of Delhi; Secretary, Health and Family Welfare, Government of NCT of Delhi, Vice-Chairman, Delhi Development Authority; Commissioner, MCD; Additional Commissioner. Slum and JJ. MCD; Chairman and Managing Director, Housing & Urban Development Corporation Ltd., Senior Manager, Traffic DTC are present.

After hearing the Secretary. Urban Development, Government of India; Principal Secretary, Government of NCT of Delhi, Secretary, Urban Development, Government of NCT of Delhi. Vice-Chairman, DDA; Commissioner, MCD: Additional Commissioner, Slum and JJ, MCD; Chairman & Managing Director, Housing & Urban Development Corporation Ltd., Senior Manager, Traffic DTC, we are of the view that a Coordination Committee should be set up to resolve the problems which are the subject matter of the order dated 16th November, 2000.

The Secretary, Urban Development, Government of India shall be the convenor of the Coordination Committee with Principal Secretary, Government of NCT of Delhi, Secretary, Health & Family Welfare, Government of NCT of Delhi, Vice-Chairman. DDA, Commissioner, MCD, Additional Commissioner, Slum & JJ Department, MCD, Chairman, Delhi Vidyut Board and Chairman, Delhi Jal Board; Chairman DTC,; Mr. A.S. Chandhiok, President of the Delhi High Court Bar Associations and Mr. Ashok Aggarwal, Advocate as members.

The Committee shall work out an action plan within a period of two months and filed a report in this regard. The action contemplated in implementing the action plan should also be indicated in the report of the Committee.

The directions given in the order dated November 16, 2000 shall be complied with by the concerned authorities within a period of four weeks.

11. This Coordination Committee constituted by Order dated 30th November, 2000 in CWP No. 6553/2000 went ahead with the task. Suggestions were invited from various parties thereof on 16th February, 2001 when this Court passed a detailed Order after noticing that the report of the Coordination Committee was in the process. Various directions were given in this Order. The relevant portion of this is reproduced hereunder:

"The Secretary, Urban Development states that the report of the Coordination Committee is in the process of being finalized. The Chairman, HUDCO, who is present in person, states that he will furnish a scheme to the Coordination Committee with regard to the construction of low cost dwelling units for the slum dwellers. We understand that some of the counsel for the parties have filed written suggestions in the connected petitions. Let the counsel furnish copies of the written suggestions filed before us to the Coordination Committee so that the suggestions could be considered by the Coordination Committee before finalizing the report. In case the written suggestions are not received by the Coordination Committee within one week, it should proceed to finalise the report without waiting for the same. The Coordination Committee shall also consider the question of protecting vacant lands belonging to the Government and its agencies from encroachments and deal with the same in its report.

The Secretary, Urban Development, states that the policy for re-location of the jhuggi dwellers has been finalized. He says that according to the policy, in case a jhuggi dweller has to be uprooted from a particular area, he is required to be relocated in another area. We would expect the Government of India to file an affidavit stating the policy which has been finalized. The affidavit be filed within three weeks. The Railways shall also file an affidavit stating as to whether or not they would be following the policy of the Government of India.

One more aspect of the matter which is connected with the question of providing shelter to the shack dwellers needs to be given thought to. We find that when shack dwellers are relocated at new sites the infrastructure meant for the purpose of making available the basic needs is rarely in place. This is due to lack of coordination between various wings of the Government which are meant to provide the infrastructure. Ways and means must be found to solve the difficulties. Undoubtedly, the problem in question are massive but must be surmounted. One such problem is lack of toilets in the city and along the railway lines. Not only the shack dwellers but also others who do not find any toilet for defecation and urination, use fields, roads, foot paths and other open places for the said purposes. This is not in keeping with human dignity. Violation of the

dignity of human beings infringes Article 21 of the Constitution. Besides, Delhi being the capital city of the country, is a show window to the world of our culture, heritage, traditions and way of life. A city like Delhi must act as a catalyst for building modern India. It cannot be allowed to degenerate and decay. Defecation and urination cannot be allowed to take place in open at places which are not meant for these purposes.

12. Thereafter, by Order dated 23rd April, 2001 the Coordination Committee was directed to discuss the matter further and give their suggestions on the question of relocation of shack dwellers and institute upgradation of JJ clusters. The Committee was also directed to prepare and file a project for constitution of dwelling units for the slum dwellers and institute upgradation of JJ clusters with the participation of HUDCO and/or with other agencies as well as the shack dwellers. It was also directed that the area should be identified immediately so that work could start within a couple of months. Thereafter, this Committee filed report. On 5th December, 2001 it was directed that any of the parties who wanted to file comments and suggestions thereto may file the same and the matter was adjourned to 15th January, 2002. On this date, the following Order was passed :-

Heard learned counsel for the various parties.

Mr. Kailash Vasudeva, learned senior counsel has informed that on the recommendations of the Committee, three pilot projects have been started by the official respondent and depending upon the progress of these projects as well as the experience that may be gained there from, the respondent authorities shall take further steps regarding re-location of the Jhuggi dwellers.

The matter is accordingly adjourned to 1st May, 2002.

The counsel may also look into the policy and make their recommendation.

It was pointed out by some counsel appearing for certain parties that the encroachment of public land is a perennial problem inasmuch as even after steps are taken to remove the encroachment and unauthorized constructions demolished, such unauthorized constructions come up again at the same site within few days. In CWP No. 4215/95 order dated 26th May, 1997 was passed whereby the police authorities were directed to ensure that no new jhuggies come up. The relevant portion of this Order reads as under:

"We reiterate that the land owning agencies and other authorities including police department shall ensure that no new Jhuggi comes up while this court is considering these matters. We direct Commissioner of Police, Delhi to forthwith issue necessary orders/directions to all concerned police officers to ensure that these directions are complied with and that the breach would be seriously viewed by this court.

We may also note that the past history shows that by lapse of time and on account of timely actions not having been taken, the Jhuggi clusters have been

multiplying each year."

This direction was repeated in the order dated 12th October, 1998 passed in the aforesaid writ petition. We note it with anguish that in spite of aforesaid categorical directions given, the agencies including the police authorities have not taken any effective steps to check the growth of these jhuggies which are still mushrooming on public land. While in these petitions, the problem of the relocation of the existing jhuggi clusters is being addressed, the said problem is being compounded by allowing new jhuggies to come up on public land. Therefore, while reiterating the aforesaid orders, we make it clear that in case any such fresh encroachments takes place, the Deputy Commissioner of Police of the concerned area would be personally responsible for this and appropriate action would be initiated against him. We further direct that copy of this order be communicated to all the Deputy Commissioners of Police concerned for strict compliance."

13. We may note at this stage that the government of NCT of Delhi as well as Union of India, from time to time, were making statements to the effect that they would be formulating policy with regard to JJ clusters. It is also a matter of record that various policies have been framed in this respect from time to time laying down certain guidelines for rehabilitation of these JJ clusters. Therefore, as stated in the beginning, there are two aspects of the problem. One is the removal of the JJ clusters and the other is their rehabilitation, as per the policies of the Government. At the time of argument, we were informed that some petitions are pending in Division Bench-II of this Court wherein the issue regarding the policy of the Governments, Delhi Government as well as the Central Government, for rehabilitation of these slum dwellers is specifically pending. In view thereof, the parties confined themselves only to the first issue and submitted that in these petitions that issue only may be decided. Even otherwise, when the second issue is pending consideration before another Bench which is seized of the matter, it would be appropriate not to touch that issue in these petitions. The Orders we are going to pass shall always be subject to and/or conditioned by the directions which would be ultimately given in those cases.

14. Before proceeding further we may mention that keeping in view the planned development of Delhi, DDA Act was enacted in the year 1957 i.e., within 10 years of attaining independence and within 7 years of promulgation of the Constitution. The purpose was the orderly development of the city. With this aim in mind Master Plan for Delhi u/s 7 of the DDA Act and Zonal Development Plans for various zones u/s 8 of the said Act are prepared. The authorities under the Act are given the duty to ensure the development of the Delhi in accordance with these plans. The local bodies are empowered to develop lands, to provide basic amenities, to dispose of developed lands, to put up complex-residential and commercial, according to the needs and aspirations of the people. However, influx of people from all over the country into Delhi has posed stupendous housing problem. The city has, Therefore, witnessed rampant construction

activity, legal as well as illegal.

15. Illegal activities have assumed various forms. Many persons who construct houses on their own plots make extra constructions contrary to bylaws, either by adding more floors than the permissible or more coverage than permissible. Then there are illegal colonies by encroaching upon public land. Mushrooming of JJ clusters is also after encroaching public land. We, in this Petition, are concerned with this type of encroachments. In the process, there has been a totally haphazard growth of the city in complete contravention of the Master Plan or the Zonal Development Plan. DDA has also not been able to protect its land. It is observed that in many cases, after acquiring the land for the purposes of development of city, nothing is done for years together and the land is not even protected with the result that JJ clusters and other illegal colonies came up on such lands. No doubt, presently the city is growing at an unprecedented pace and it must be equipped to face temporary challenges. For this purpose cannot be achieved by adopting the policy of adhocism. The problem has to be dealt with after taking into consideration all the aspects that inhabitants of the city should be able to live in safe, convenient and healthy surroundings, which was the purpose in mind when DDA was enacted.

16. It cannot be denied that the goal of every good administration would be to have the capital city without slums. "Cities without Slums" is a theme that concerns us, collectively and individually. The problem is not confined to Delhi. It is spread world over and particularly in developing countries. One billion poor people live without adequate shelter and basic services in slums and squatters settlements. With over half of humanity living in cities and towns the challenge of the urban millennium is to improve the living environment of the poor. Ms. Anna Kaujumulo Tibaijuka. (Executive Director, United Nations Centre of Human Settlements) at an interactive session held at the Indian Habitat Centre on September 4, 2001 deliberated on the subject in detail in her address titled : "Cities without Slums : How can the urban governance campaign contribute?"

17. It is not necessary to address this issue in great detail. After all it is the task of policy makers who may have the guidance and assistance of experts in the field. We have to deal with the issue, as it stands today, from legal perspective.

18. There is no denying the fact that the problems of these JJ clusters has been assuming serious proportions and is becoming more and more complicated. There is large scale encroachment of public land by the persons who come from other States and after encroaching upon public land, they construct Jhuggi/jhopri. These clusters over a period of time are mushroomed. On 24th February, 1997 detailed Order was passed in CWP No. 4215/95 which was taken as the lead case on behalf of the resident associations of various colonies. In this detailed Order, this enormous problem has been stated in detail on the basis of affidavits of the Joint Secretary. Urban Development Department, Government of NCT of Delhi as well as Director (Slum Upgradation and Rehabilitation) Slum (JJ Department), M.C.D. There is no denying the fact that no person has right to

encroach public land. It also goes without saying that if there is such encroachment it is the statutory duty cast upon the civic authorities like. M.C.D., N.D.M.C., as well as the DDA to remove such encroachments, be it by the lower strata creating slums or by other residents who encroach public land and make unauthorised constructions of big buildings thereon. No doubt the Government has been formulating the policies for relocation of JJ clusters keeping in view the social and humane aspects of the problem. As already mentioned above, we are not concerned with this aspect of the matter in the present case which is being attended to by the Division Bench-II. However, it does not require any great intelligence to know that it is because of the negligence, carelessness or rather active connivance of the officials of these Departments as well as others, at the helm of affairs that these encroachments take place and slums are created. In these petitions, itself, this Court passed Orders time and again to the effect that the concerned authorities including the Police Department shall ensure that no further Jhuggi/jhopri come up while the Court is considering these matters. These Orders are already reproduced above. With anguish we have to observe that such Orders are not taken seriously by the persons who are supposed to implement the same. Even when the Order dated 26th May, 1997 was passed in CWP No. 4215/95 and repeated number of times thereafter, one notices the dismal and gloomy picture of such Jhuggi/jhopri coming up regularly in flagrant violation and stubborn defiance to the aforesaid Orders.

19. No doubt, the problem is social and humane in nature. At the same time it is also evident that there are number of reasons for compounding these problems because of vested interest of certain sections of the Society. It is not necessary to spell out these vested interest. Suffice is to state that humanitarianism must be distinguished from miscarriage of mercy. Countless slum lords who have cropped in public land are making large untaxed income every month out of the misery of the homeless. No doubt, shelter for every citizen is an imperative of any good government, but there are cleaner ways to achieve that goal than converting public property into slum lords' illegal estates. Once author remarks : "No City, no democracy, can survive without law and Order. Public interest requires promotion of law and order, not is denegation and destruction. Those who start encroachment may be motivated by kindness, but good motives are not enough". Thus while schemes for rehabilitation may go on (which is a matter sub-judice before another Division Bench as noticed above;) while pilot projects started may be experimented and government may consider rehabilitation of these JJ cluster, there is no decision for continuing such JJ clusters on public land in the vicinity of the resident associations thereby blocking foot-paths, open lands, green lands or parks. It is necessary to have a planned development of the city for which Delhi Development Act was enacted way back in 1957 and Master Plan for Delhi have been formulated there under from time to time. The welfare of the residents of these colonies is also in the realm of public interest which cannot be overlooked. After all, these residential colonies were developed first. The slums have been created afterwards which is the cause of nuisance and

brooding ground of so many ills. The welfare, health, maintenance of law and order, safety and sanitation of these residents cannot be sacrificed and their right under Article 21 is violated in the name of social justice to the slum dwellers. Even if the government and civic authorities move at snails pace and take time at their own leisure for the rehabilitation of these clusters, this is no excuse for continuing them at the given places.

20. We have to Therefore, balance two conflicting interests and keeping that in mind we are of the opinion that following directions would subserve the interest of justice:-

A. Those slum clusters which have come up contrary to the existing policy of the Government should not be allowed to remain. The respondent should take action for demolishing the same.

B. Those clusters which have come up after Order dated 24th February, 1997 were passed in CWP 4215/95 (and reiterated time and again) are clearly in violation of these Orders. The respondents shall take action for removal of these clusters as well.

C. Based on the recommendations of the Coordination Committee which was constituted by interim Order of this Court, three pilot projects were started by the respondents. The respondents-authorities shall take further steps regarding relocation of JJ dwellers.

We may note here, in all fairness to the M.C.D., D.D.A., that of and on these authorities do take such actions. However, in spite of removal of clusters from particular places, they are again allowed to bounce back. Therefore, we reiterate interim Order dated 26th May, 1997. 12th October, 1998 and 14th January, 2002 passed in these Petitions and particularly in CWP No. 4215/95 which will continue to operate and the authorities shall remain bound thereby.

It would be open for these welfare associations to approach the concerned authorities for this purpose and get the needful done.

D. Wherever, the JJ clusters are relocated and JJ colonies have come up, proper civic amenities and other facilities be provided.

E. Wherever, decision is taken in respect of the JJ clusters which are protected as per the existing policy of the Government, they have to remain there till steps are taken for relocation thereof. The respondent should consider institute upgradation thereof by providing necessary civic amenities.

F. We may, however, clarify that during the pendency of these petitions, in certain cases pursuant to Rehabilitation Scheme, alternate accommodation/land was provided to various inhabitants of these dwellers. In the new areas, where they were located. Order were passed from time to time for providing basis amenities. By no means, we are interfering with these Orders or suggesting that the respondent-authorities should discontinue those facilities. Those Orders shall

remain valid wherever such Scheme have already been implemented. As far as relocation of the existing JJ clusters is concerned, the same shall abide by the result of the petitions pending before the Division Bench-II.

G. We may also note at this stage that some petitions were filed by various occupiers against whom Orders for removal were passed by Estate Officer and/or other Estate Officers in respect of other public land u/s 5A(2) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and Writ Petitions are filed against these Orders on the ground that no remedy of appeal is available. Since they are encroachments of public land and are unauthorised occupants of public premises at public places, they have no legal right to maintain such a Petition. Such petitioners have challenged these Orders. These Writ Petitions are, Therefore, dismissed.