Delhi High Court Judgement on Slum Dwellers

Why in news?

The Delhi High Court recently held that slum dwellers are not secondary citizens but citizens with equal rights.

What is the case about?

- The court's order came on a 2015 plea by senior Congress leader Ajay Maken.
- He had sought that the Railway Ministry and Delhi Police be restrained from carrying out further demolition drive in Shakur Basti (slum) in Delhi.
- It allegedly left around 5,000 people homeless in chilly winter conditions and caused the death of a six-month-old girl.
- Two dwellers of the JJ Basti were also impleaded as petitioners in the petition later.
- The demolition had taken place in violation of the law explained in various judgments of the Supreme Court and the Delhi High Court.
- As per the Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015, the JJ clusters shall not be removed without providing them alternative housing.

What is the court's present directive?

- The court said that “forced” and “unannounced” eviction of slum dwellers without following proper guidelines is contrary to the law.
- The court held that authorities can evict slum dwellers only when their occupation of the land is illegal.
- Any unannounced eviction without a resettlement and rehabilitation plan is also not permitted.
- Before carrying out an eviction drive, the authorities will have to conduct detailed survey.
- They have to draw up a rehabilitation plan in consultation with the dwellers in the JJ bastis and jhuggis.
- It is also to be ensured that after eviction they are immediately rehabilitated.

What had been the popular view?

- Slum dwellers have often been characterised as encroachers by government agencies, mainstream media, and even courts.

- In popular understanding, urban slums and their residents have been seen as the antithesis to what is planned and what is legal.
- Political support for the rights of slum dwellers to receive adequate notice before eviction and rehabilitation has not been very frequent.
- Earlier judgements too have not gone far enough to protect substantive rights of slum dwellers.
- The Supreme Court earlier had held that the right to life includes the right to livelihood but did not indicate specific reliefs.
- The Delhi High Court laid down safeguards and procedures to be followed by government agencies before proceeding to remove jhuggis/slums.
- But confusion remained as to whether central agencies would be bound to follow the same procedures or not.

What is the court's present view and rationale?

- **Citizens** - The judgement stated that persons complaining of forced eviction would not be viewed as “encroachers” but as citizens.
- The judgment mandates equal rights for slum dwellers and access to the principles of natural justice for slum dwellers.
- **Right to housing** - The bench observed that the right to housing is a bundle of rights and not just limited to a bare shelter over one's head.
- It includes the rights to livelihood, health, education and food, including right to clean drinking water, sewerage and transport facilities.
- **Legal doctrine** - The judgement asserts that slum dwellers' rights (to rehabilitation or to prior notice) have to be determined as per the law of the land.
- Constitutional provisions make it obligatory for government agencies to ensure that there are no arbitrary and illegal evictions.
- The Constitution envisages cities as a “commons good” to which everyone has a right.
- This view acknowledges that those living in slums contribute to a city’s social and economic life.
- In the context of Delhi, sanitation workers, garbage collectors, and domestic helpers provide a wide range of indispensable services to healthy urban life.
- Prioritising the housing needs of this section of the public is not only a moral imperative but now also a legal one.
- **Right to** - The Court discussed the concept of 'Right To The City' in its judgement.**city**
- The foundation of this concept was laid in the Istanbul Declaration on Human Settlements made at Istanbul, Turkey in 1996.
- There were 2 major themes at the conference - adequate shelter for all, and sustainable human settlement development in an urbanising unit.

- Right to city thus refers to the right of all inhabitants to occupy, use and produce just, inclusive and sustainable cities which are common good essential to the quality of life.
- The right to the city further implies responsibilities on governments and people to claim, defend, and promote this right.

Source: Indian Express, Live Law

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