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CrI.O.P.No.193 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2022

CORAM:

THE HON'BLE Dr. JUSTICE G.JAYACHANDRAN

CrI.O.P.No.193 of 2020

The Deputy Superintendent of Police,
"Q" Branch CID, Chennai City,
Chennai-4.

.. Petitioner

Vs.

The Deputy Director Unique Identification Authority of India (UIDAI),
3rd Floor South Wing, Khanija Bhavan,
No.49, Race Course Road,
Bengaluru-560 001.

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to direct the respondent to share the following 35 Nos.Aadhaar Cards information including genuineness, on the Aadhaar Cards whether they were issued to the same person as found attached with the affidavit details of any updates from the date of issue to till date (Name, Address, Date of Birth and Mobile Number) done to the following 35 Aadhaar Numbers, the details of authorized persons who can make/have made the corrections, the certified copies of the applications along with the KYC documents submitted by the applicants to apply and make the correction and details of genuine for the purpose of completing the investigation in Crime No.01 of 2019 on the file of the petitioner



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for 35 Aadhaar Numbers: 593622712648, 984247945179, 748387303159, 660481218801, 593622712648, 718242093817, 617398384888, 593622712648, 757243534551, 846692109961, 984247945179, 506938483890, 448579625731, 691759662971, 610552873091, 864223904480, 640901550390, 950101335710, 959092342305, 605537900889, 605537900889, 567300980940, 567300980940, 882877089646, 780697978802, 926133403455, 695267244107, 815200621628, 895077345482, 895077345482, 895077345482, 408324134853, 547884871302, 617398384886, 927049507081.

For Petitioner : Mr.S.Santhosh
Government Advocate (Crl. Side)
For Respondent : Dr.D.Simon
Central Government Standing Counsel

ORDER

This Criminal Original Petition has been filed to direct the respondent to share the following 35 Nos.Aadhaar Cards information including genuineness of the Aadhaar Cards whether they were issued to the same person as found attached with the affidavit details and any updates from the date of issue to till date (Name, Address, Date of Birth and Mobile Number) done to the following 35 Aadhaar Numbers. The details of authorized persons who can make /have made the corrections, the certified copies of the applications along with the KYC documents submitted by the applicants to apply and make the correction for the purpose of

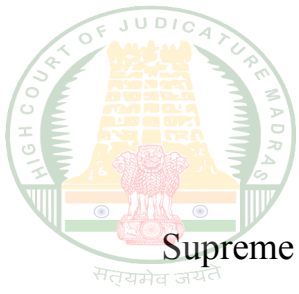


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completing the investigation in Crime No.01 of 2019 on the file of the petitioner.

WEB COPY 35 Aadhaar Numbers: 593622712648, 984247945179, 748387303159, 660481218801, 593622712648, 718242093817, 617398384888, 593622712648, 757243534551, 846692109961, 984247945179, 506938483890, 448579625731, 691759662971, 610552873091, 864223904480, 640901550390, 950101335710, 959092342305, 605537900889, 605537900889, 567300980940, 567300980940, 882877089646, 780697978802, 926133403455, 695267244107, 815200621628, 895077345482, 895077345482, 895077345482, 408324134853, 547884871302, 617398384886, 927049507081.

2. The Deputy Superintendent of Police, “Q” Branch CID, Chennai City, Chennai-4 has sought for above informations from the respondent about the of 35 Nos. Aadhaar Card Numbers listed in the petition along with KYC documents submitted by the applicants of the concerned Aadhaar Card. The particulars sought for is required to the petitioner herein in connection with crime relating to fake Indian Passport possessed by Srilankan Nationals. When request by the petitioner herein made to the respondent on 24.06.2019, the respondent vide letter dated 30.07.2019 had expressed its in-ability to provide details citing the Hon'ble



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Supreme Court Judgment in ***Justice K.S.Puttaswamy and Another -vs- Union of***

India (UOI) and Others reported in (2017) 10 SCC 1.

3. The learned counsel for the respondent states that sharing of informations regarding the Aadhaar Card details may amount to breach of the above said Supreme Court Order.

4. This Court considering the Judgment of the Hon'ble Supreme Court rendered in ***Justice K.S.Puttaswamy and Another -vs- Union of India (UOI) and Others cited supra*** relied by the respondent for declining requests of the petitioner, is of the view that the intention of the petitioner herein is primarily to ascertain whether the Aadhaar Cards seized by them in the course of the investigation are genuine or not and thereafter to ascertain on what basis those Aadhaar Cards were issued by the respondent, who are Foreign Nationals. Furnishing of these details are not been prohibited by the Judgment of Hon'ble Supreme Court rendered in ***Justice K.S.Puttaswamy and Another -vs- Union of India (UOI) and Others cited supra***. It does not amount to disclosure of the privacy details of any individuals but to probe whether there is any such individual



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at all.

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5. In this regard, it is brought to the notice of this Court by the Government Advocate (Crl.Side) for the respondent that under Section 33 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, disclosure of information in certain cases is permitted in the interest of national security. Reliance on the judgment of Delhi High Court in *The State, Govt of NCT of Delhi -vs- Unique Identification Authority of India (UIDAI) in Crl.M.C.No.3314/2021 vide order dated 20.01.2022* made by the Government Advocate (Crl.Side) to buttress his submission.

6. Section 33(1) of Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, after amendment by Act 14 of 2019 reads as below:-

33. Disclosure of information in certain cases.—

(1) Nothing contained in sub-section (2) or sub-section (5) of Section 28 or sub-section (2) of Section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made pursuant to an order of a court not inferior to that of a [Judge of a High



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Court]:

Provided that no order by the court under this sub-section shall be made without giving an opportunity of hearing to the Authority [and the concerned Aadhaar number holder]:

[Provided further that the core biometric information shall not be disclosed under this sub-section.]

(2) Nothing contained in sub-section (2) or sub-section (5) of Section 28 and clause (b) of sub-section (1), sub-section (2) or sub-section (3) of Section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made in the interest of national security in pursuance of a direction of an officer not below the rank of [Secretary] to the Government of India specially authorised in this behalf by an order of the Central Government:

Provided that every direction issued under this sub-section, shall be reviewed by an Oversight Committee consisting of the Cabinet Secretary and the Secretaries to the Government of India in the Department of Legal Affairs and the Department of Electronics and Information Technology, before it takes effect:

Provided further that any direction issued under this sub-section shall be valid for a period of three months from



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the date of its issue, which may be extended for a further period of three months after the review by the Oversight Committee.

7. The above said Section enables the High Court to order an disclosure of information including the identity and authentication information of the Aadhaar Card holder. The information sought by the petitioner for investigation falls within the definition of “Identity Information” as per Section 2(n) of the Act, which reads as below:-

2. Definitions:- *In this Act, unless the context otherwise requires,-*

(a)....

(b)....

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.

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(n). “Identity Information” in respect of an individual, includes his Aadhaar number, his biometric information and his demographic information;

8. If the Aadhaar Card itself is not genuine, it is open to the respondent to inform the petitioner herein that the Aadhaar Card is a fake document and not issued by them. By refusing to furnish the details sought for by the investigating agency which is permissible under law and not against the direction issued in the



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Judgment of Supreme Court, the due process of investigation of a serious crime gets stale. The reason of the respondent to refuse information to the petitioner herein is not justified as the information sought for is for investigation of crime.

9. Hence, the respondent is hereby directed to furnish details sought for by the petitioner herein within a period of three weeks from the date of receipt of a copy of this order. If any particulars could not be furnished, the reasons be stated to the petitioner. Accordingly, this Criminal Original Petition is allowed.

21.04.2022

Index :Yes/No.
Internet :Yes/No.
Speaking/Non-speaking
pbl/vv

Copy to:-

1. The Deputy Director Unique Identification Authority of India (UIDAI),
3rd Floor South Wing, Khanija Bhavan,
No.49, Race Course Road,
Bengaluru-560 001.
2. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

Pbl/vv/bsm

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