

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

CRM-M-56293-2023

Date of Decision : November 07, 2023

State of Haryana

-Petitioner

V/S

The Unique Identification Authority of India & Ors. -Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Bhupender Singh, D.A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 482 of the Cr.P.C. read with Section 33(1) of the Aadhar Act, 2016 and further amended by the Aadhar (Amendment) Act 14 of 2019, the State of Haryana has sought issuance of directions upon the respondent No.1 to deliver certified information (other than core bio-metric information), including identity information or authentication records of Aadhar Cards of certain individuals.

2. The Regional Passport Officer, Chandigarh, through letters, as enclosed in Annexure P-1, made intimation to the Superintendent of Police, Panipat, that three persons, namely, (i) Ameena, (ii) Ambiya and (iii) Naseer, while applying for issuance of passports, had submitted their respective Aadhar Cards as proof of their dates of birth and residences. To ascertain the validity of the said submitted Aadhar Cards, the requisite police verification was initiated, whereupon, a Clear Police Verification Report was received from police official(s) of City Panipat and thereupon, passports were issued to the said persons. However, subsequently a report

was received from Bureau of Immigration (MHA), Government of India, ICP, Haridaspur, West Bengal, wherein, the said persons were revealed to be Bangladeshi Citizens. Therefore, the Regional Passport Officer concerned requested the Superintendent of Police concerned to conduct an inquiry regarding such serious lapse on the part of the local police and thereafter, to submit a detailed report.

3. Pursuant to the making of letters (Annexure P-1), the S.H.O., P.S. Quilla, Panipat, made an application (Annexure P-3) to the respondent No.1, thereby seeking complete information about the Aadhaar Cards of alleged Bangladeshi Citizens (supra). However, through communication dated 12.01.2023 (Annexure P-4), addressed to the Deputy Superintendent of Police concerned, the respondent No.1 denied to supply the asked for information, on the ground, that the relevant Act restricts the sharing of information procured from Aadhaar number holders. The relevant extract of the communication (Annexure P-4) is extracted hereunder:-

"2. The Aadhaar (Targeted Delivery Of Financial and Other Subsidies, Benefits And Services) Act 2016 ("Aadhaar Act") restricts the sharing of information procured from Aadhaar number holders, [Section 28(2) and (5); Section 29(2) And (4)] except as per the provisions of the Aadhaar Act or the Regulations framed there under.

3. The only exception on the restriction on sharing of information is provided under section 33 of the Aadhaar Act. An amendment to the act has been issued vide "The Aadhaar & Other Laws (Amendment) Act 2019". No 14 of 2019 dated 23rd July 2019 and notification issued thereto on 25th July 2019.

4. As per Section 33(1) Of Aadhaar Act, 2016 and further amended by the Aadhaar (Amendment) Act 14 of 2019 as referred

Above, "Any disclosure of information (other than core biometric information), including identify information or authentication records, be made pursuant to an order of a court not inferior to that of judge of a High Court. Provided that no order by the court under this sub selection shall be made without giving opportunity of hearing to authority (UIDAI) and the concerned Aadhaar number holder".

5. Also the Hon'ble Supreme Court vide its judgment dated 26/09/2018 in WPI 494 of 2012 and connected cases had clarified that an individual, whose information is sought to be released, shall be afforded an opportunity of hearing. If such an order is passed, in that eventually, he shall also have right to challenge such an order by approaching the higher court. During the hearing before the concerned court, the said individual can always object to the disclosure of the information in accepted grounds in law, including Article 20(3) of the Constitution of the privacy rights etc.

6. Further, it is submitted that as per UIDAI, Hqrs., New Delhi O.M. dated 20.12.2018 No.4(4)/57/186/2016/E&U-pt-11, Aadhaar may not be used as a proof of Date of Birth.

7. However the existence of Aadhaar Number can be verified by anyone by the official website of UIDAI i.e. <http://resident.uidai.gov.in/verify>."

4. Therefore, the State of Haryana is before this Court, seeking issuance of directions upon the respondent No.1 to supply the denied information.

5. At the very outset, a specific query was put to the learned State counsel qua the maintainability of the instant petition under Section 482 of the Cr.P.C. and that too, without any challenge to the impugned communication (Annexure P-4) being raised therein. However, he could not return any satisfactory response to the query made by this Court.

Moreover, the learned State counsel does not dispute the factum that no criminal proceedings have arisen out of the evidence (supra), which may either entitle the State of Haryana to invoke the extraordinary writ jurisdiction of this Court, as envisaged under Section 482 of the Cr.P.C., or, impel this Court to entertain a misconceived petition.

6. Since the present petition is a totally misconceived motion, therefore, this Court is constrained to dismiss the same. Accordingly, the writ petition is dismissed. However, as prayed for by the learned State counsel, liberty is granted to the petitioner/State of Haryana to take appropriate remedial action, by challenging the impugned communication (Annexure P-4), through instituting an appropriate motion before the appropriate forum/court concerned.

November 07, 2023
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No