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

+ **W.P.(C) 9356/2024**

LALITA YADAV

.....Petitioner

Through: **Mr. Anunaya Mehta, Advocate**

versus

UIDAI & ORS.

.....Respondents

Through: **Ms. Saroj Bidawat SPC for R-1/UOI**
Ms. Mercy Hussain, Ms. Kirti Singh,
Advocates for R-2
Mr. Nishit Kush, Mr. Siddharth Sikri,
Advocates for R-3

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

07.10.2024

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1. The present petition seeks to direct Unique Identification Authority of India,¹ Respondent No. 1, to produce the relevant record summoned by the Petitioner in divorce petition bearing HMA No. 629/2024 which is pending before the Family Court South West, Dwarka, New Delhi.

2. The Petitioner and Respondent No. 2 are a married couple. The Petitioner filed a petition under Section 9 of the Hindu Marriage Act, 1955 seeking restitution of conjugal rights. Contrarily, divorce proceedings were initiated by Mr. Mam Raj Yadav, Respondent No. 2 under Section 13(1)(ia) of the Hindu Marriage Act, 1955.

3. In the said proceedings, Petitioner asserted that during the subsistence of her marriage, Mr. Mam Raj Yadav, married Ms. Bhawna Yadav,

W.P.(C) 9356/2024

Page 1 of 4



Respondent No. 3 and relied upon the Aadhaar Card issued to Mrs. Bhawna Yadav which mentions that she is wife of Mr. Mam Raj Yadav. In order to prove this document, on 13th March, 2024 the Petitioner had applied to summon the Section Officer from UIDAI, Regional Office before the Family Court and the same was allowed. Accordingly, the Officer appeared before the Family Court and relied upon a letter dated 05th April, 2024. The said letter referred to Section 33 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016,² and stated that the information sought by the Petitioner can only be directed to be produced pursuant to an order passed by the High Court and after affording an opportunity of hearing to UIDAI and the Aadhar Number holder, which has also been observed by the Supreme Court in W.P(C) 494/2012.

4. Subsequently, through order dated 7th May, 2024, the Section Officer was discharged and Petitioner was given liberty to take recourse as per law. In this background, Petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950, seeking to summon the relevant record of Ms. Bhawan Yadav submitted by her to UIDAI at the time of changing her marital status and change of name.

5. Counsel for Respondent No. 2 and Respondent No. 3 strongly object to the petition on the ground that an that Aadhaar Card is not proof of relationship. Counsel for Respondent No. 3 states that Ms. Bhawna Yadav has only been in a live-in relationship with Mr. Mam Raj Yadav but is not his legally wedded wife. He further states that Ms. Bhawna Yadav has a right to remain silent and place reliance on Article 20(3) of the Constitution

¹ “UIDAI”

² “the Aadhar Act”



of India, 1950.

6. The Court has noted the facts and contentions of the parties. Section 33 of the Aadhar Act allows disclosure of information, including identity and authentication records, if ordered by a court not inferior to that of a High Court. Section 33 of the Aadhar Act stipulates as under:

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

7. Upon a bare reading of the provision, it is evident that First Proviso to Section 33(1) clearly specifies that no order by the Court under this sub-section shall be made without giving an opportunity of hearing to UIDAI and the concerned Aadhaar number holder.

8. Notably, UIDAI has already put forth its stand. Pursuant thereto,



notice was issued to the Aadhar number holders who have been duly served and have a legal representation through counsel.

9. In the opinion of the Court, considering that copy of the Aadhaar Card of Ms. Bhawna Yadav on record specifically gives the name of her husband as Mr. Mam Raj Yadav, the Petitioner has a right to seek the disclosure of the records sought by them.

10. In light of the above, the present writ petition is disposed of with a direction that Respondent No. 1 shall produce the record summoned in terms of the Petitioner's application dated 13th March, 2024 made before the Court of the Principal Judge, Family Court, South West, Dwarka, New Delhi in HMA No. 629 / 2024.

11. It is clarified that the Court has not examined the disputed issue of marriage between the parties as asserted by the Petitioner. The Court has only considered Petitioner's limited request for summoning the record pertaining to the Aadhaar Card which has been issued to Ms. Bhawna Yadav, which specifies her husband's name as Mr. Mam Raj Yadav.

12. The Principal Judge, Family Court, South West, Dwarka, New Delhi is directed to complete the recording of evidence within one month from today.

13. With the above direction, the present petition along with pending application(s), if any, is disposed of.

SANJEEV NARULA, J

OCTOBER 7, 2024/ab

W.P.(C) 9356/2024

Page 4 of 4