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

% **Decision delivered on: 21.12.2023**

+ **W.P.(C) 7566/2019**

ASHWINI KUMAR UPADHYAY Petitioner

Through: Petitioner-in-person.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr Manish Mohan, CGSC with Mr Jatin Tedia for R-1/UOI & R-4 to R-7.

Mr Santosh Kumar Tripathi, Standing Counsel (Civil) with Mr Arun Panwar, Mr Pradyuman Rao, Mr Utkarsh Singh, Mr Kartik Sharma, Ms Prashansa Sharma, Mr Rishabh Srivastava and Ms Nikita Vir, Advs., for R-2/GNCTD.

Mr Shlok Chandra, Sr. Standing Counsel with Ms Soumya Pandey, Adv., for R-3/UIDAI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

GIRISH KATHPALIA, J. (ORAL):

1. It would be apposite to commence by extracting the prayer clause of this Public Interest Litigation (PIL), which is as under:



*“a) take appropriate steps to link movable and immovable property documents of citizens with their Aadhaar number to curb corruption, black money generation and benami transaction;
b) in the alternative, direct the Union of India and Government of NCT of Delhi to pass a reasoned order on the petitioner's representation dated 11.03.2019 within 30 days;
c) take such other steps as this Hon'ble Court deems fit and proper to control corruption and benami transaction;
d) allow the cost of this petition to petitioner.”*

2. The petitioner himself being a practicing advocate of this court has been prosecuting this petition in person. Originally, this writ petition was filed impleading only two parties, namely the Union of India and the Government of NCT of Delhi. Subsequently, before different coordinate benches, five more parties were added culminating into the amended memo of parties filed with index dated 19.04.2023. Counter-affidavit was filed on behalf of only the respondent no.3 namely Unique Identification Authority of India. The respondent no.2 namely Government of NCT of Delhi filed a short affidavit. None of the remaining respondents filed a counter-affidavit despite repeated directions. Keeping in mind nature of this petition, we found no reason to defer the matter further to await a counter-affidavit from the remaining respondents. As such we heard the petitioner in person and learned counsel for all respondents.

3. Briefly stated, it is pleaded in the petition that the petitioner, having no personal gain and no motive other than the larger public interest has brought this petition *bonafide* in the interest of justice; that *benami* transactions qua movable and immovable property are potent source of black money generation and corruption, which, in turn, undermine the rule



of law and also lead to economic under-performance of governmental bodies and consequent obstacle in poverty alleviation; that the fundamental rights enshrined in and flowing from Article 21 of the Constitution of India cannot be secured without curbing corruption, but for that purpose no provision has been made by the Government to link Aadhar Cards with the transaction documents related to the movable and immovable property; that if the transactions related to movable and immovable property are linked with Aadhar Cards, it would clean up not just corruption but also the black money and even flaws of the electoral process in this country.

4. During arguments, petitioner reiterated the above mentioned contents of this petition and also referred to his representation dated 11.03.2019, which according to him has not been dealt with by the respondents till date.

4.1 On the other hand, learned counsel for respondents assured that they would dispose of the said representation within reasonable period of time.

5. We are of the considered view that the exercise of linking Aadhar Cards with transactions related to property – movable as well as immovable, basically falls in the domain of policy making and consequently, beyond the scope of judicial intervention. It is only once a policy is framed and/or acted upon by the executive that the decision would be open to judicial scrutiny. Besides, the exercise of linking Aadhar Cards with property transactions would require inputs from various stakeholders, including public consultation. The policy framers may have to examine



readiness and ground realities. That being so, at this stage, we are not inclined to issue any directions as sought in prayer clause (a) of the petition.

6. However, petitioner has also set up an alternate prayer clause, seeking directions to the Union of India and the Government of NCT of Delhi to pass a “reasoned order” on the petitioner’s representation dated 11.03.2019. Learned counsel for respondents are *ad idem* that the representation made by the petitioner can be examined and dealt with.

7. In view of the aforesaid, the petition is disposed of with the following directions:

- (i) the respondents shall treat the present petition as a part of representation dated 11.03.2019 made by the petitioner and deliberate on the same; and
- (ii) after carrying out necessary deliberations, involving the petitioner, if so required, and other stakeholders (including if necessary public consultation), the respondents shall dispose of the same within a period of eight (08) weeks from the receipt of copy of this order.

(GIRISH KATHPALIA)
JUDGE

(RAJIV SHAKDHER)
JUDGE

DECEMBER 21, 2023/RV