IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4406 OF 2019

The State of Maharashtra
(through Senior Police Inspector,
Crime Intelligence Unit (OPS)
Detection Crime Branch, Mumbai … Petitioner

V/s.

1. Unique Identification Authority of India
(through its Manager),
Regional Office, Mumbai,
7th Floor, MTNL Exchange
Somani Marg, Cuffe Parade Colaba,
Mumbai

2. Electronics and Information Technology Dept.
(through its Secretary)
Government of India, New Delhi

3. Majid Khan Shah Hajrat Shah
@ Miraj Tahir Khan
Age 31 years,

(i) Address : r/o. Room No. 44,
Musa Pathan Chawal, Prabhat Colony,
Santacruz East, Mumbai 54

(ii) Address : Ekta Central Park,
F Wing Room No. 1504 Dongri Road,
Near Global City Virar (West)
Dist. Palghar. … Respondents

Mr. J.P. Yagnik, A.P.P. for the Petitioner-State of Maharashtra.
Ms. Supriya Kak for the Respondent Nos.1 and 2.

CORAM : A. S. GADKARI AND KAMAL KHATA, JJ.
DATE : 27th JULY, 2026

JUDGMENT (Per : A.S. Gadkari, J.) :-

1) Rule. Rule made returnable forthwith and with the consent of the parties heard finally.

1.1) Heard Mr. Yagnik for the Petitioner and Ms. Kak for the Respondent Nos.1 and 2. Perused entire record.

2) By this Petition under Article 226 of the Constitution of India the Petitioner seeks a direction to Respondent No.1, to disclose identity information and authentication record of Respondent No.3 i.e. Majid Khan Shah Hajrat Shah @ Miraj Tahir Khan.

3) It is the case of the prosecution that, Respondent No.3 is a citizen of Afghanistan holding passport No.02133212. He entered India with an Indian Tourist Visa bearing No. VK 6740585 which was valid until 22nd October, 2018. He illegally overstayed in India, beyond the visa validity period, and to conceal his true identity, destroyed his original passport and assumed the false identity as “Miraj Tahir Khan”.

3.1) In furtherance of the fraudulent scheme, Respondent No.3 with the assistance of co-accused Shyamsundar Kashiram Kasale, Pradeep Prakash

Kulkarni and his wife Shabnam Azaruddain Haji Fajar, inter alia obtained forged and fabricated identity documents namely (i) a PAN Card No.HPKPK5397Q, (ii) Aadhaar Card No.330157998159, and (iii) School Leaving Certificate. Using these forged and fabricated documents, he fraudulently procured an Indian Passport bearing No.Z5454227, whereby he now falsely represents himself as an Indian citizen.

3.2) The prosecution therefore lodged crime No.36 of 2019 at Vakola Police Station under Sections 417, 419, 465, 467, 468, 471 and 201 read with 34 of the Indian Penal Code, 1860, Section 12(1A) of the Indian Passport Act, 1967, and under Sections 14 and 14C of the Foreigners Act, 1946, which was subsequently transferred to Crime Intelligence Unit (OPS), Detection Crime Branch, Mumbai, and renumbered as C.R. No.185 of 2019.

3.3) During the course of investigation, it was revealed that, an Aadhaar Card was also obtained by the Respondent No.3 through submission of fraudulent/bogus documents.

3.4) In this precise factual background, the investigating agency seeks disclosure of all the documents submitted by Respondent No.3 for Aadhar enrollment from UIDAI i.e. the Respondent No.1.

4) The relevant sections of the Aadhar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, (for short 'Aadhaar Act') that fall for our consideration are as under:

Section 28(2) of Aadhaar Act:

"Subject to the provisions of this Act, the Authority shall ensure confidentiality of identity information and authentication records of individuals."

Section 28(5) of Aadhaar Act:

"Notwithstanding anything contained in any other law for the time being in force, and save as otherwise provided in this Act, the Authority or any of its officers or other employees or any agency that maintains the Central Identities Data Repository shall not, whether during his service or thereafter, reveal any information stored in the Central Identities Data Repository or authentication record to anyone:"

Section 29(2) of Aadhaar Act:

"The identity information, other than core biometric information, collected or created under this Act may be shared only in accordance with the provisions of this Act and in such manner as may be specified by regulations."

4.1) While section 28(2) deals with the authority ensuring confidentiality, section 28(5) deals with restraint on the concerned officers and employees from revealing or disclosing of the identity information and authentication of records of individuals. Section 29(2) of the Aadhaar Act stipulates that no core biometric information, collected or created shall be shared with anyone for any reason whatsoever or used for any purpose other than generation of Aadhaar numbers for an authentication under this Act.

4.2) However, Section 33(1) and (2) of the Aadhaar Act provides as follows :

> "**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 Joint 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.”

5) Section 33(1) creates a limited exception to the confidentiality mandate enshrined in Section 29, permitting authorized disclosure to courts of competent jurisdiction for the purposes of investigation and adjudication of criminal offences, subject to appropriate judicial oversight and confidentiality safeguards.

5.1) Additionally, the Proviso to Section 33(1) envisages an opportunity of hearing to be given to the Authority, as well as the Aadhar number holder. In that regard, Ms. Kak, appearing on behalf of UIDAI, submits on instructions that the Authority has no objection to divulging the information to the concerned Investigating Agency, if the Court so directs.

5.2) Notably, Section 33(2) carves out an exception for cases concerning national security.

6) Mr. Yagnik, the learned Addl. P.P. submitted that, cases of illegal border infiltration, followed by fraudulent Aadhaar Card procurement, pose systemic security threats. Foreign nationals even after deportation, have re-entered India through the same established channels and repeatedly obtain forged identity documents. The escalation to alleged anti national activities following document procurement further underscores the gravity of the pattern.

6.1) The learned APP urged this Court to invoke its jurisdiction under Article 226 of the Constitution of India, to address these systemic vulnerabilities and to direct coordinated procedures across relevant authorities including the UIDAI, Ministry of Home Affairs, Bureau of Immigration, FRRO, State Police Authorities, National Crime Records Bureau, to strengthen detection and prevention mechanisms for such forged and fabricated identity documents by submission of false and bogus documents, in the interest of national security obtained.

6.2) Learned Addl.P.P. further requested that, this Court may direct UIDAI, under Section 33(1) of the Aadhaar Act, to produce :

(i) All documents submitted by Respondent No. 3 during Aadhaar enrollment;

(ii) Demographic information and enrollment records;

(iii) Biometric records as legally permissible and specifically required for the criminal proceedings.

6.3) He submitted that, the said documents are required not for any collateral purpose, but solely for investigation and adjudication of serious criminal offences and that adequate safeguards regarding confidentiality could be imposed by this Court while directing production of records. He further submitted that an appropriate UIDAI officer could be nominated to produce certified records before this Court and the investigating agency be permitted to utilize such records for completing the investigation and to file a supplementary report, if necessary.

6.4) He also submitted that the investigating agency be directed to:

(i) verify the citizenship and immigration status of all such persons whose identity is found doubtful;

(ii) direct the FRRO, Bureau of Immigration and Ministry of Home Affairs to initiate proceedings under:

(i) the Foreigners Act, 1946;

(ii) the Passport (Entry into India) Act, 1967;

(iii) the Citizenship Act, 1955; and

(iv) any other applicable law, where a person is found to be illegally residing in India;

(iii) collect and preserve biometric data and other identifying particulars, in accordance with law, for effective investigation, future identification, deportation or criminal prosecution;

(iv) initiate appropriate deportation proceedings or criminal prosecution upon conclusion of criminal proceedings as permissible in law;

(v) recommend the immigration authorities to consider appropriate restrictions on re-entry into India, including blacklisting and cancellation of fraudulently obtained identity documents and notification with photos.

7) Learned counsel Ms. Kak appearing for the UIDAI (Respondent No.1) submitted that, it was because of the mandate of Section 29 of the Aadhar Act, which imposes confidentiality restrictions on the disclosure of core biometric information that the information could not be shared. She however, confirmed the exception carved out under Section 33(1) of the Aadhaar Act, upon directions issued by this Court, the requested information would immediately be furnished to the investigating agency.

8) This Court has observed a concerning pattern having come across with many cases wherein, foreign nationals have illegally infiltrated India's

border and have fraudulently obtained basic documents to conceal their true identity and subsequently procured Aadhaar Cards to claim Indian identity. In a few cases, the investigating agencies have reported that such persons have engaged in alleged anti-national activities after securing these fraudulent documents, particularly leveraging the Aadhaar Card to claim false legitimacy as Indian citizens.

9) This pattern reflects a critical gap in inter-agency coordination and document verification procedures. The availability of Aadhaar Cards obtained through fraudulent means creates cascading vulnerabilities across identity, immigration, and security systems, necessitating urgent and coordinated institutional response. It therefore appears to us that there has to be a concerted efforts by all the State and Central Agencies to trace out and deport all such foreign nationals on priority basis. Time is of the essence and it is extremely important that investigations be completed within a stipulated period. Delay in these procedures, incorporated for the protection of Indian citizens, cannot and should not inure to the benefit of infiltrators, since such delay in taking action encourages and emboldens established channels to infiltrate further. Consequently, it also encourages and emboldens persons engaged in the manufacture of forged and fabricated documents. The continued stay of infiltrators causes several problems, as aforesaid, while speedy action may not be possible under the present mandated procedure. It is, therefore, imperative for the Respondent to carve out exceptions and abridge

present procedures or incorporate separate procedures to deal with issues such as human trafficking and border infiltration. The numerous Petitions filed by State before this Court are testament to the enormity of the problem, which must be resolved with the utmost expedition. A reference to the legal maxim *salus populi est suprema lex* — "the welfare of the people is the supreme law", may be apposite in the present context.

10) In our view, Section 33(2) of the Aadhar Act could have been invoked by the State as contemplated by the section instead of invoking Section 33(1) since it concerns the national security of the country.

11) Be that as it may, having considered the seriousness of the entire matter, particularly regarding procurement of Aadhaar Card by submitting fraudulent documents, by invoking the jurisdiction of this Court under Article 226 of the Constitution of India, as well as the provisions of Section 33 (1) of the Aadhaar Act, we deem it fit to pass an order without affording a hearing to the Aadhar number holder as under:

(i) The competent Officer of the UIDAI (Respondent No. 1) to immediately furnish photocopies of all documents submitted by Respondent No. 3 for the Aadhar enrollment to the nominated officer of the investigating agency. Such disclosure shall be made within two weeks from the date of this Order being uploaded on the official website.

(ii) The nominated officer/s of the investigating agency is directed to utilize the disclosed documents/material to complete its investigation not only against the accused but also all co-accused and file a supplementary report before the Court of competent jurisdiction.

(iii) The Ministry of Home Affairs, Bureau of Immigration, Foreigners Regional Registration Office (FRRO), and State police authorities are directed to coordinate with the investigating Agency to verify the citizenship and immigration status of all such persons identified in the course of this investigation whose identity is doubtful, and to initiate proceedings under (i) the Foreigners Act, 1946, (ii) the Passport (Entry into India) Act; (iii) the Citizenship Act, 1955; and (iv) any other law applicable to such acts, to persons found to be illegally residing in India, as warranted in the circumstances.

(iv) The competent immigration Authorities shall initiate deportation proceedings against Respondent No. 3 and any other person found to be a foreign national illegally residing in India with utmost expedition and in any event within 4 weeks.

(v) The said Authorities are further directed to impose appropriate restrictions or ban their re-entry into India in accordance with law.

(vi) These persons be blacklisted alongwith their photographs and be circulated amongst all police stations, all concerned Authorities and all service providers across the State to restrain their entry or stay in India.

(vii) The concerned authorities to immediately impound and cancel (i) The Indian Passport bearing No.Z5454227, (ii) PAN Card No.HPKPK5397Q, (iii) Aadhar Card No.3301 5799 8159 and (iv) School Leaving Certificate along with all fraudulently obtained identity or allied documents which are forged and fabricated or manufactured documents in accordance with applicable law and initiate appropriate criminal action against them and circulate them in all Police Stations across the State.

(viii) The concerned Authorities to also investigate and trace out those persons creating these false/bogus documents and through whom and the manner in which the Aadhar was obtained.

(ix) The UIDAI, in coordination with the Central Bureau of Investigation and Police Authorities of all States, is directed to collect and preserve the photographs, all biometric data, demographic records, and other particulars identifying Respondent No. 3 and all other co-accused for future identification, investigation, prosecution and notify them with all concerned Authorities, police stations and service providers in every State to prevent them from re-entering through any route, obtain fake identities in future, in accordance with law.

(x) It is needless to mention the data provided by the UIDAI to the concerned Officer of the investigating agency shall be maintained securely by responsible high-ranking official/s of all concerned Authorities and shall not be disclosed except as provided under the provisions of Aadhaar Act or directions by a competent Court of jurisdiction.

(xi) The concerned Department of Central Government may consider effecting necessary amendment in the Aadhaar Act, particularly in the wake of the recent developments in the State which are presented before this Court in different cases, to assist the investigating Agencies in promptly tracing, deporting and preventing re-entry of such persons who have illegally infiltrated the border even once and have been deported or have obtained forged documents or changed identity to claim Indian Citizenship and to prevent illegal entry through established channels in the interest of National Security.

12) Petition is allowed in the aforesaid terms.

(KAMAL KHATA, J.) **(A.S. GADKARI, J.)**