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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REF. 1/2022**

COURT ON ITS OWN MOTION

..... Petitioner

Represented by:

versus

STATE OF NCT OF DELHI AND ANR.

..... Respondent

Represented by: Ms.Nandita Rao, ASC (GNCTD)
with Mr.Amit Peswani, Advocate
for the State.

Mr. Prashanto Chandra Sen,
Sr.Advocate appearing as an
Amicus Curiae with Ms.Abhisree
Saujanya, Advocate.

Mr.Anil Soni, CGSC with
Mr.Rahul Mourya, Advocate for
Union of India.

Dr.Amit George, Advocate with
Mr.Arkanail Bhaumik, Mr.Amol
Acharya and Mr.Rayadurgam
Bharat, Advocates for Delhi State
Legal Services Authority
(DSLISA).

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **18.11.2022**

1. The present reference, inter-alia, raises the following questions of law:-

(1)How can biometrics of persons kept in database of UIDAI be shared and compared for identification of an unknown deceased?



- (2) *How can provisions of Aadhar (Targeted Delivery of Financial and Other Subsidiaries Benefits and Services Act, 2016 (Aadhar Act, 2016) be used to secure the insurance benefit to the dependents of the unknown deceased victims?*
- (3) *Whether UIDAI can refuse to share/compare biometrics of unknown deceased/victims of crime on the ground of Sections 29 and 33 of the Aadhar Act, 2016?*
- (4) *If UIDAI is justified in not sharing biometric information on account of Sections 29 and 33, is there an alternate procedure for ascertaining the identification of an unknown deceased?*
- (5) *If there is no alternate procedure, then what should be the procedure to be adopted by the Tribunal?*
- (6) *Whether the refusal of UIDAI to share/compare biometrics for ascertaining identity of deceased victims violates the existing law which provides that a person is bound by law to render assistance, omits to do so, is liable for punishment?*
- (7) *Whether amendments to Section 29 r/w Section 33 of the Aadhar Act, 2016 as amended by the Aadhar (And other laws) Amendment Act, 2019 restricts and curtails the powers of judicial review by the High Court? If yes, its constitutional validity?*

2. Learned Amicus Curiae has pointed out to this Court that two writ petitions being W.P.(C) No. 12067/2018 and W.P.(C) PIL No. 7794/2018 wherein the issue of utilizing the existing biometrics database/Adhaar database for the purpose of identification across the country as also for identification of children, old people and mentally challenged is involved, are pending before this Court. Further, the Hon'ble Supreme Court is also seized of the issue regarding identification of unidentified dead bodies by utilizing Aadhar database in W.P.(C) 795/2019 titled '*Prof. Ruma Purkait Vs. Union of India and Ors.*'



3. Since the broader issue of identification of unidentified dead bodies by utilizing the Aadhar database in W.P.(C) 795/2019 is pending before the Hon'ble Supreme Court, it would be appropriate to deal the present reference after the decision is rendered by the Hon'ble Supreme Court on the issue.

4. List this reference on 23rd February 2023.

5. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

ANISH DAYAL, J.

NOVEMBER 18, 2022/akb