

2025:BHC-OS:11428-DB



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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3586 OF 2021

Vilas Prabhakar Lad
51 years, Occ: Business,
Res. R.N. 46 at Shiv Krupa CHS,
New Prabhadevi Road, Near
Samna Press, Prabhadevi,
Mumbai – 400 0025

...Petitioner

Versus

1. Unique Identification Authority of India (UIDAI) Having their regional office at 7th Floor, MTNL Exchange, G.S. Somani Marg, Cuffe Parade, Colaba, Mumbai – 500 005
2. Chief Commissioner, Gujarat State GST Rajya Kar Bhavan, Ashram Road, Ahmedabad, Gujarat – 380 009
3. UTI Infrastructure & Technology Service Ltd. Having their office at Plot No.3, Sector 11, CBD, Belapur, Navi Mumbai – 400 614
4. Union of India, Through Secretary of Ministry of Electronics and Information Technology, Having office at New Delhi
5. Chief Commissioner of Income Tax, Income Department, Ground Floor, Ayakar Bhavan, M.K. Road, New Marine Lines, Mumbai – 400 020
6. Manager, Union Bank of India, S.R. Marg, Ground Floor, Anar Complex, Nr Vijay Restaurant Road, Navrangpura, Ahmedabad – 380 009

7. Commissioner of State Tax,
Government of Gujarat,
Having office at Kar Ghatak 1,
Block No.3/1, District Seva Sadan – 2,
Rajkot, Gujarat. ...Respondents

Dr. Uday Warunjikar a/w Mr. Jenish D. Jain for the Petitioner.
Mr. Jitendra B. Mishra a/w Mr. Ashutosh Mishra & Mr. Rupesh Dubey
for Respondent Nos.1 & 4.
Mr. Pradeep Yadav for Respondent No.3.
Mr. Nainesh Amin i/by N. N. Amin & Co. for Respondent No.6.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

RESERVED ON : 14 July 2025

PRONOUNCED ON : 21 July 2025

JUDGMENT:- (Per Jitendra Jain, J.)

1. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties. By consent of the parties, matter is heard finally since the pleadings are complete.
2. This is a matter where all the statutory, regulatory and law enforcement agencies remained stand still for five years from the fraud having surfaced till today more so when the fraud was committed on these very authorities which should have awakened them and they ought to have moved with lightning speed for discharging their duties to set criminal action in motion.
3. The Petitioner by this petition under Article 226 of the Constitution of India has sought for following reliefs:-

“(a) That this Honourable Court be pleased to issue Writ of Mandamus or Writ in the nature of Mandamus directing

- (i) Union of India, through its Income Tax Department to cancel and suspend as well as inquire into the bogus PAN card Number ACVPL3264C.*
- (ii) Direct the Unique Identification Authority of India to suspend and cancel the Aadhaar Card Number 592509117750.*
- (iii) To direct the Andhra Bank having branch at Navrangpur Branch to freeze the account number 087211100005020 and close it.*
- (iv) Issue direction directing the Chief Commissioner, Gujrat State GST, and Ahmedabad to suspend the GST Registration of No.24ACVPL3264C1ZL.*
- (v) To inquire into the grievance of the present Petitioner within such period as this Honourable High Court may deem fit and proper.*
- (b) During the pendency of this petition, be pleased to direct the Respondents therein to suspend the PAN Number ACVPL3264C, Aadhaar Number 592509117750, Bank Account No. 087211100005020 and GST Certificate No.24ACVPL3264C1ZL.*
- (bb) Be please to direct the Unique Identification Authority of India and Union of India through Income Tax department to issue and fresh Aadhaar Card and PAN Card of the Petitioner herein by restoring the original identity of the Petitioner herein.*
- (c) Ad-interim relief in terms of prayer clause (b)*
- (cc) This Hon'ble Court be pleased to restrain the proposed Respondent namely, Commissioner of State Tax, Government of Gujarat, from taking steps on the basis of the Order of Attachment dated 20/05/2024.*
- (e) Any other relief deemed fit and proper may please be granted in favour of the Petitioner herein*
- (ee) Ad-interim relief as per prayer clause (c)."*

4. **Brief Facts:-**

- (i) The Petitioner is an individual staying in Mumbai and is running a small provisional store and earns his livelihood from the said business activity.*
- (ii) On 28 December 2019, a legal notice was received by the Petitioner from a Rajkot based Advocate. The said notice was sent on behalf of one Mr. Chetankumar Tulsibhai Savera stating therein*

that the Petitioner has failed to pay rent and, therefore, sum of Rs.75,000/- was demanded towards default in rent of a property at Rajkot.

- (iii) The Petitioner's Advocate replied to the said notice and denied the allegations made therein. The Petitioner specifically stated that he has never entered into leave and license agreement referred to in the notice. He further replied that there appears to have been a fraud committed by using the Petitioner's identity and the Petitioner has no connection with M/s. Metro International Trading Company in any manner whatsoever.
- (iv) On 14 February 2020, the Petitioner was once again shocked to have received a notice under Section 138 of the Negotiable Instruments Act, 1881 (NI Act) from Ahmedabad based Advocate on behalf of Shri Rajkumar K. Agrawal for dishonour of a cheque for an amount of Rs.13,83,200/- drawn by M/s. Metro International Trading Company. The Petitioner's Advocate immediately replied vide letter dated 2 March 2020 to the said legal notice and denied the allegations made therein. The Petitioner stated that a fraud appears to have been committed by using his identity since he has no connection whatsoever with M/s. Metro International Trading Company.
- (v) The Petitioner was faced with several other legal notices by various parties under Section 138 of the NI Act and the Petitioner replied to the same reiterating his stand that somebody has misused his identity and played fraud on these parties.
- (vi) On 27 January 2020, the Petitioner filed a complaint with the Dadar Police Station, Mumbai bringing to the notice of the law enforcement agency that someone has misused his identity and

specifically brought to the attention of the police authorities the various legal notices received by the Petitioner which are referred to hereinabove. The authorities at Dadar Police Station informed the Petitioner on 11 March 2020 that upon enquiry it is informed that an incident of cheating has been reported in the State of Gujarat by using Petitioner's Aadhaar card and PAN card and, therefore, requested the Petitioner to approach the authorities at Gujarat since, the offence had been committed in the State of Gujarat.

- (vii) On 4 March 2020, the Petitioner's Advocate addressed a letter to Andhra Bank at Ahmedabad bringing to their notice that the Petitioner has not opened any account with the said branch nor has he visited Gujarat at any point of time. The Petitioner also brought to the attention of the bank about legal notices under Section 138 of the NI Act. On 25 November 2020, since Andhra Bank Branch did not respond to the said letter another reminder was sent by the Petitioner.
- (viii) On 16 December 2020, Union Bank of India (Respondent No.6) (since Andhra Bank had merged with Union Bank of India) informed about the details of the account opened at its branch. The date of account opening was 20 July 2019 and the cheque book was issued on 2 August 2019 and 4 December 2019.
- (ix) On 1 December 2020, Union Bank of India addressed a letter to the Petitioner stating that all relevant KYC documents for opening the account in the name of M/s. Metro International Trading Company, under the proprietorship of Mr. Vilas Prabhakar Lad were submitted and at the time of account opening Union Bank of India had verified the office address and all the KYC documents with the originals. With this letter, the bank annexed a copy of PAN

card, Aadhaar card and GST registration certificate on the basis of which the bank had opened the account. All these documents bear the name of the Petitioner but the photograph was not of the Petitioner.

- (x) On 29 January 2021, the Petitioner's Advocate brought to the notice of Respondent No.1-UIDAI Authority the above chain of events which led to undue harassment to the Petitioner on account of fraud having been committed by using the Aadhaar card and PAN card number of the Petitioner on which the photograph of some other person was embossed. The said letter requested the Respondent No.1-UIDAI to suspend/cancel the Aadhaar card number issued to the Petitioner. Along with the said letter, the Petitioner also enclosed copy of the Aadhaar card issued to him and what was being misused to show that the photographs on both these Aadhaar cards do not tally.
- (xi) Having failed to receive any response from Respondent No.1-UIDAI, the Petitioner once again through his Advocate sent a reminder notice and requested the Respondent No.1 to take immediate action. Similar letter was sent to the agency issuing PAN card on behalf of Respondent No.2.
- (xii) In January 2021, the Petitioner's Advocate informed the PAN card Regional Office about the fraud having been committed and misuse of the Aadhaar card and PAN card. Along with the said letter, the Petitioner also enclosed his original PAN card and the copy of PAN card which was misused. In February 2021, the Petitioner's Advocate addressed a similar letter to Respondent No.3, the entity engaged by the Income Tax Department for providing services of issuing PAN card. Respondent No.3-UTI Infrastructure and Technology Services Ltd. replied to the said

notice vide letter dated 17 March 2021. Respondent No.3 in its reply stated that PAN card copy (original and fraud) annexed to the notice has not been processed by them and further they clarified that they are not an authority to cancel/suspend the PAN card issued to the Petitioner.

(xiii) On 29 January 2021, the Petitioner brought to the notice of the Mumbai GST authorities the aforesaid fraud committed by impersonation of the Petitioner's identity. In the said letter, the Petitioner brought to the attention of the Mumbai GST authorities that the GST registration number has been obtained by an unknown person by using Aadhaar card of the Petitioner and GST registration is issued in the name of M/s. Metro International Trading Company having office at Rajkot. The Petitioner further requested the Mumbai GST authorities to cancel the GST registration obtained through fraud. The said letter was forwarded by the Mumbai GST authorities to the Gujarat GST authorities vide letter dated 4 February 2021 for necessary action since, the Registration Certificate was issued by the Gujarat GST authorities. The Petitioner's Advocate, vide letter dated 10 February 2021, addressed to the Gujarat GST authorities reiterated what was stated to the Mumbai GST authorities and requested the Gujarat GST authorities to cancel the Registration Certificate since same was obtained by fraud. Having not heard from the Gujarat GST authorities, the Petitioner sent a reminder to the said authorities on 2 November 2021.

(xiv) The Petitioner was also faced with criminal complaints being filed against him before the Court of Metropolitan Magistrate at Ahmedabad for dishonour of cheques. Criminal Case No.18299 of

2020 was filed against the Petitioner by one Shree Salasar Papers before the Metropolitan Magistrate, Ahmedabad.

(xv) On 29 September 2021, the Petitioner filed a complaint with Navrangpura Police Station, Ahmedabad on the above issue bringing to the notice of the police authorities the Petitioner's identity being stolen for opening a fake bank account etc.

(xvi) The Petitioner was also served with an attachment notice in Form GST DRC-01A issued by the Commissioner of State Tax, Government of Gujarat (Respondent No.7) seeking to attach property of the Petitioner for outstanding dues of M/s. Metro International Trading Company, the entity which was floated by an unknown person using the identity of the Petitioner.

5. It is on the above backdrop that the Petitioner was constrained to approach this Court for seeking necessary reliefs.

REPLY AFFIDAVITS OF RESPONDENT NOS.1, 3 AND 6

6. The affidavit-in-reply, dated 10 March 2021 is filed on behalf of Respondent No.1 by Dr. Dipti Yadav, Deputy Director of Respondent No.1. In the reply of Respondent No.1, it is stated that Respondent No.1 has not generated identical Aadhaar number for two different persons. In the said affidavit, Respondent No.1 has stated that notices issued by the Petitioner dated 29 January 2021 and 2 November 2021 were replied by Respondent No.1 on 18 November 2021. The reply further states that jurisdiction for entertaining matters relating to forgery lies with the appropriate authority and not with Respondent No.1. In the said reply, Respondent No.1 has stated that if the Aadhaar number is deactivated, then the Petitioner will not be able to use the same for any transaction and neither Respondent No.1 can issue another Aadhaar

number to the same person. Respondent No.1 brought to the attention of the Petitioner various Regulations with respect to privacy and confidentiality of biometric data. Respondent No.1 also relied upon the authentication records of Aadhaar number holders which are available on the website for securing the identity of the person holding Aadhaar numbers. Respondent No.1 referred to various provisions of the Aadhaar Act with regard to maintaining the privacy and confidentiality of details of Aadhaar number holders.

7. Respondent No.3-UTI Infrastructure Technology and Services Limited filed its reply through Mrs. Sandhya Rapshe, Deputy Manager on 11 May 2022. Respondent No.3 in its reply has referred to the Agreement dated 1 June 2019 entered between itself and the Income Tax Department for implementation and processing of PAN application and issuance of PAN cards on behalf of Central Board of Direct Taxes, Government of India. Respondent No.3 has stated that they have limited scope of work as service provider for issuance of PAN card and their scope includes receipt of PAN application, creation of PAN data and printing of PAN card. Respondent No.3 stated that the PAN card of the Petitioner was allotted on 25 February 2010 and the address in the PAN application was of Mumbai. The Respondent No.3 denied having issued the original PAN card to the Petitioner and also the fake PAN card used by an unknown person, primarily on the basis that Respondent No.3 was not in the picture in 2010 when the PAN number was allotted to the Petitioner.

8. Respondent No.6-(Successor of Andhra Bank)-Union Bank of India has filed an affidavit dated 11 July 2025 through Mr. Darshak Vaghela, Branch Manager, Navrangpura, Ahmedabad. Respondent No.6 in the said reply has stated that the account was obtained after verifying “Know Your Customer (KYC)” documents with the originals including

the notarized Rent Agreement and cheque books were issued to the account holder. Respondent No.6 has expressed its inability to access all the papers in this connection since the account was opened by Andhra Bank which has merged with Union Bank of India with effect from 1 April 2020. Respondent No.6 has further stated that the bank is guided by RBI policies/directions in this regard. Respondent No.6 in its reply has also relied upon the Master Circular issued by RBI dated 25 February 2016 as updated in 2019 and submitted that the documents obtained by the erstwhile bank were in compliance with RBI guidelines. The reply further states that on uploading the PAN card number in the Finacle system available with the bank, it never shows the photograph of the concerned person and only confirms the name, PAN number. Similarly, no photograph of the person holding the Aadhaar number gets reflected on feeding of the Aadhaar card details and, therefore, it is not possible to verify the identity of the holder of the Aadhaar card/PAN card of any customer by the bank in case the same is used by non-DBT customer. Respondent No.6 has further stated that the account has been frozen and same is having dormant status with a negative balance.

Submissions of the Petitioner:-

9. Dr. Warunjikar, learned counsel for the Petitioner, has filed written submissions and contended that the Respondents have failed to take necessary measures to ensure confidentiality of identity information and, therefore, the Petitioner is entitled to compensation. He further submitted that the Respondents have failed to comply with Regulations 28 and 29 of Aadhaar (Enrolment and Update) Regulation, 2016. He further submitted that even today on the portal of GST the same entity exists with the same name and Aadhaar number. He further submitted that the Bank, UIDAI, GST authorities and tax authorities have failed to carry out their duties cast upon them by the Aadhaar Act,

GST Act and Income-tax Act and even Respondent No.6 has failed to perform its duty as per the Master Circular of RBI. He submitted that none of the Respondents have filed any FIR on discovery of this fraud even after 4 to 5 years of the event having taken place. He submitted that the Petitioner had to face a lot of hardship and harassment by facing various criminal proceedings on account of fraud being played by an unknown person. He submitted that the Petitioner is a small-time businessman and hardly makes both ends meet. He further submitted that the inaction of the Respondents should be construed as dereliction of their duties. He submitted that the proceedings against the Petitioner initiated by the GST authorities, criminal proceedings before Metropolitan Magistrate etc. should be quashed. However, he submits that necessary action should be taken against the person who has committed the fraud.

10. Mr. Warunjikar has also brought to the notice of the Court how identity theft is dealt with by different countries of the world and he has made further suggestions on the steps to be taken to prevent such incidents in the future.

Submissions of the Respondents:-

11. Mr. Mishra, learned counsel for Respondent No.1 has tendered across the bar various documents to show measures taken by Respondent No.1 to prevent misuse of Aadhaar. He submitted that they have cooperated with the Petitioner as soon as the incident was brought to their notice by deactivating the Aadhaar number and further activating the same. He submitted that the Aadhaar number is a unique number given to a person and, therefore, it is not possible to give two numbers to the same person. He submitted that the bank was supposed to carry out the authentication which they have failed to do so in the

instant case and, therefore, the fault lies at the doorstep of Respondent No.6 and not with Respondent No.1.

12. Mr. Amin, learned counsel appearing for Respondent No.6 submitted that the bank has complied with the Master Circular issued by RBI in relation to opening of the account and, therefore, no fault can be attributed to the bank in opening the account. He submitted that even today the photograph of an Aadhaar number holder does not get reflected on e-verification. He further submitted that no relief is claimed against the bank except de-freezing of the account which the Respondent No.6-bank has already done. He further submitted that till today no complaint has been filed by the bank for the fraud committed in opening the account.

Analysis and Submissions:-

13. At the outset, we wish to express our displeasure with the inaction on the part of each of the Respondents, after having brought to their notice the fraud committed by unknown persons on each of these Respondents who are statutory and government authorities. This is a case where all the statutory, regulatory and law enforcement agencies stood motionless for 5 years till today when the fraud committed on these authorities should have awoken them and spurred them to move at lightning speed to set the criminal process in motion thereby discharging their lawful duties.

14. Although the Petitioner vide various letters since 2020 onwards informed each of the Respondents as to how his Aadhaar number and PAN number was misused by impersonation for opening bank account, obtaining GST registration, conducting business transactions, etc., none of the authorities initiated or took steps to lodge an FIR with the law enforcement agencies against unknown persons for

having committed fraud on each of these authorities. The Petitioner informed the GST authorities at Gujarat about an unknown person fraudulently obtaining GST registration by using his Aadhaar number and PAN number way back in February 2021. Till today, it appears that the GST authorities at Gujarat have not lodged an FIR on account of fraud played on them for obtaining GST registration by unknown person.

15. Similarly, this was brought to the notice of Respondent No.6-Bank in December 2020 itself and even after being aware of the same till today, we are informed that no FIR has been filed by Respondent No.6 or its predecessors. This was a clear case where fraud was committed for opening a bank account by misusing the Aadhaar number and PAN number of the Petitioner by another individual. However, even till today, Respondent No.6 has not set in motion any criminal proceedings against such an individual. We were informed by the counsel appearing for Respondent No. 6 that they would be filing criminal complaint on this issue now.

16. The illegal act of fraud was brought to the notice of Respondent No.5, Income Tax Department by the Petitioner in January 2021, but we have not been shown any material by Respondent No.5 of any complaint having been lodged with the police authorities. It was incumbent upon the Income Tax Department to have lodged a complaint with the police authorities since PAN number of the Petitioner was misused for availing GST registration number, opening bank account, etc. Even today, with the matter having been argued for more than 2-3 days, no one appeared on behalf of Respondent No.5 to apprise the Court on this issue. This only shows callousness with which such a serious matter is being handled by the Revenue officials.

17. Respondent No.1-UIDAI failed to take any action against misuse of the Aadhaar card allotted to the Petitioner and fraud committed thereon. Respondent No.1 also till today has not filed any complaint with the police authorities for investigating the fraud. Respondent No.1 is an authority under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (Aadhaar Act, 2016) who is a custodian of data of millions of Indians. However, today Mr. Mishra, learned counsel for Respondent No.1 states that they would file a complaint now.

18. Mr. Mishra, learned counsel for Respondent No.1 and Mr. Amin for Respondent No.6 on a query being raised by the Court fairly admitted negligence on the part of Respondent Nos.1 and 6 in not initiating any criminal proceedings on account of the fraud.

19. In our view based on the above analysis, we have no doubt in our mind that none of the Respondents, who are statutory and regulatory authorities, have discharged their duties under the Acts by which they are governed. There has been a total failure on the part of these Respondents in not taking any action since the last five years of the discovery of fraud committed on them. The least that they could have done was to file an FIR with the police authorities for conducting investigation to prevent such events in the near future. The fraud played on all these Respondent authorities have been taken very lightly. We do not approve the inaction on the part of the Respondents in not filing an FIR or setting the criminal proceedings in motion. This is an issue which the highest authorities of each of the Respondents should introspect, investigate and fix accountability for such blatant inaction. We have our own doubts as to what would be achieved if criminal proceedings are set in motion after a period of five years of discovery of the fraud if, at all, the Respondents take the matter seriously now at least.

20. We may also note that the Petitioner himself in September 2021 filed a complaint with Navrangpura Police Station bringing to their notice the fraud being committed on various authorities by impersonating the Petitioner's identity. However, it appears that even the law enforcement agency of the State did not take the matter further.

21. This is indeed a very sad state of affairs where a citizen of this country was made to run from pillar to post for seeking redressal of his grievance where none of the authorities entrusted for enforcing and regulating their respective acts took any action. We hope that such inaction is not repeated in the future and that the authorities of the Respondents would take appropriate timely action when such fraud is brought to their notice. There is no reason given by any of these authorities for not taking any action for almost a period of five years after the fraud was discovered.

22. Respondent No.6-Bank has adopted a very casual approach to this issue by submitting that they relied on the self-certified documents submitted to them by the unknown person impersonating the Petitioner. It is their contention that based on the directions of RBI contained in the Master Circular once self-certified documents were furnished to them for opening the account there was no need for them to take further steps for authentication of those documents. Respondent No.6 has relied upon Master Directions-Know Your Customer Direction, 2016 in support of this submission.

23. Chapter VI of the said Master Direction deals with customer identification procedure. Paragraph 16 of Chapter VI provides that regulated identity (RE) shall obtain following documents from an individual while establishing an account-based relationship. One of the documents being Aadhaar number where an individual is desirous of receiving various benefits notified under Section 7 of the Aadhaar Act,

2016 or the individual decides to submit his Aadhaar number voluntarily to the bank. The second document is Permanent Account Number. Proviso to paragraph 16 states that Aadhaar number under clause (a) if submitted to a bank then such bank shall carry out such authentication of the customer's Aadhaar number using E-KYC authentication facility provided by Respondent No.1-UIAI. The proviso also requires the regulated entity to carry out offline verification, verify digital signature, verification through digital KYC, etc. The authentication of the Aadhaar number has to be done as per the Aadhaar Authentication (Regulation), 2016 which lays down comprehensive procedure for authentication of the Aadhaar number.

24. In the instant case, admittedly and undisputedly Respondent No.6 has failed to carry out the directions contained in paragraph 16 of Chapter VI of the Master Directions – KYC Direction 2016, since Respondent No.6 has not conducted any Aadhaar authentication. Had Respondent No.6 conducted Aadhaar authentication in accordance with the 2016 Regulations and Master Directions of the RBI, then the photograph of the Petitioner would have got displayed on the screen of Respondent No.6 and they could have verified the said photograph with the actual person in front of them for opening the bank account. Merely because Aadhaar number is not compulsory for opening a bank account and merely because self-certified copy of Aadhaar card is given to the bank for opening an account, it does not absolve Respondent No.6 from carrying out Aadhaar authentication as per Respondent No.6's own submission by following Regulation 2016 and the Master Directions of 2016. Had Respondent No.6 conducted this authentication, then the account would not have been opened and immediately the unknown person could have been apprehended for playing fraud. The contention of Respondent No.6 that they also relied on rent agreement, GST

registration, etc. for opening the bank account and therefore they have taken due diligence and care cannot be accepted since Aadhaar number was also given and it was obligatory on the part of Respondent No.6 for authenticating the same as required by the Master Directions and Aadhaar (Authentication) Regulation, 2016. Therefore, in our view Respondent No.6 has not discharged its duty in accordance with the Master Directions and 2016 Regulations for authentication.

25. Even assuming we accept the submission of Respondent No.6-Bank that since they were provided with self certified documents there was no need for authentication and, therefore, no fault can be attributed to the bank in opening the bank account, still there is no explanation from Respondent No.6 as to why till today i.e. for almost lapse of five years from the date when the fraud was noticed that no FIR was filed on this issue. We say so because the unknown person defrauded the bank by providing forged document relating to some other person for opening the bank account in his name and, therefore, the bank ought to have filed an FIR since the unknown person had played fraud on the bank by using forged document. There is no explanation for this even till today.

26. On account of fraud played on various statutory and regulatory authorities by impersonating the Petitioner's identity, the Petitioner faced various criminal proceedings for dishonour of cheque, attachment of property by the GST authority, etc. The Petitioner is a resident of Mumbai and the transactions and fraud was committed in Gujarat and he was faced with various criminal proceedings in Gujarat. Had the Respondents taken timely action this could have been definitely avoided.

27. A citizen of this country who toils hard to make both ends meet cannot be made to run from pillar to post by leaving his livelihood

to defend various proceedings arising out of fraud committed by an individual impersonating the Petitioner's identity and Respondents inaction in not setting criminal action in motion. Even the police authorities to whom the Petitioner made a complaint did not come to the rescue of the Petitioner. Respondents are statutory and regulatory authorities who have all the resources at their disposal to counter such fraud, but same cannot be said of a citizen of this country. The Petitioner had to engage the services of an Advocate for replying to various legal notices, for making complaints to various authorities and for instituting the present petition in this Court after having failed to get justice by repeatedly knocking the doors of the Respondents.

28. The fraud was first brought to the notice of Respondent No.6 in March 2020 by the Petitioner, but it took the Respondent No.6 almost nine months to reply to the Petitioner's letter of March 2020. Similarly Respondent No.1-UIDAI was made aware of the fraud in January 2020 but it took Respondent No.1 almost similar nine months to reply to the Petitioner's grievance and that too after the Petitioner sent a reminder. The fraud was also brought to the notice of the GST authorities by the Petitioner vide letter dated 10 February 2021, but the said Authority did not respond inspite of reminders sent by the Petitioner in November 2021. The GST authorities on the contrary took recovery action against the Petitioner by issuing attachment notice in spite of the said authority being made aware of the fraud. All these authorities were cognizant of the various criminal proceedings initiated against the Petitioner on account of transactions carried out by the unknown person impersonating the Petitioner's identity by using Aadhaar number and PAN number. Even today we were shown the portal of the GST authorities where Aadhaar number of the Petitioner appears against Metro International Trading Company. All the above analysis clearly

reflects the plight, the harassment and mental agony which the Petitioner had to undergo single-handedly without any assistance from the Respondent statutory and regulatory authorities having large resources at their disposal for investigating the fraud. We appreciate the efforts put by the Petitioner and his Advocate in instituting this petition and bringing to our attention the plight of common citizens of this country. We, therefore, have no doubt in our minds and there was no difference of opinion between the Bar and the Bench that the Petitioner had to undergo tremendous mental harassment and agony in facing the consequences of the fraud played on him by an unknown person and inaction on the part of the Respondents on this count.

29. We, however, agree with the learned counsel for Respondent No.1 that they cannot issue a second Aadhaar number to the Petitioner since the same is not permissible under the Aadhaar Act of 2016, Aadhaar number being a unique identity ascribed to each person. However, the said number is in the knowledge of the unknown person who may further misuse the same and we have not been apprised by Respondent No.5 as to whether they can issue a different PAN number to the Petitioner and link that PAN number with the Aadhaar number of the Petitioner so that whenever the Aadhaar number of the Petitioner is used it can be cross-verified by issuance of the new PAN number. We express our displeasure that none appeared on behalf of Respondent No.5-Income Tax Department to assist us in resolving this issue.

30. Dr. Warunjikar, learned counsel for the Petitioner with the able assistance of his junior has made various suggestions to prevent such incidents of misuse of Aadhaar number namely, Aadhaar card should have a QR code which should be used for authentication, mobile OTP verification system, procedure for discarding of documents, information

by SMS upon usage, criminal proceedings for misuse of Aadhaar and taking assistance of Artificial Intelligence.

31. Mr. Mishra, learned counsel for Respondent No.1 has tendered across the Bar various documents and steps taken by them for preventing misuse of Aadhaar. Such measures include securing enrollment and updating ecosystem with biometric and demographic checks, biometric lock/unlock, promotion of mask Aadhaar to protect Aadhaar number, de-recognition of weaker ID documents, penal action for violation of Aadhaar Act, use of QR code, public awareness measures, etc. Mr. Mishra has also handed over SOP for carrying offline verification issued by Respondent No.1 in February 2025. The Union of India has also issued an Office Memorandum dated 19 June 2023 for authentication/verification of Aadhaar and copies of the same have been marked to about 84 Secretariats of the Government of India for further action. Mr. Mishra has also handed over the advisory dated 31 May 2022 regarding strengthening of biometric authentication security and Circular No.9 of 2020 for fingerprint authentication and launch of face authentication. Circular No.3 of 2024 issued by Respondent No.1 deals with guidelines on requiring Aadhaar number for receipt of subsidy, benefit of service under Section 7 of the Aadhaar Act, 2016. In our view, the suggestions made by the Petitioner's counsel are already in place as evident from the documents produced by counsel for Respondent No.1. Similarly, the Aadhaar Act of 2016 and various Regulations made therein and the provisions of the Bhartiya Nyaya Sanhita, 2023 and Information Technology Act, 2000 fairly deal with the penal provisions for dealing with such issues which is posed for our consideration.

32. In our view, in spite of various penal laws and provisions, such acts of fraud cannot be prevented, but it is the shortcoming and delay in

implementation of these laws that such frauds get committed and are perpetuated. Therefore, it is the duty of the law enforcement agencies to take timely action when such frauds are brought to their notice, and if such timely action is taken then that would act as a deterrent in commission of such offences in the future.

33. We have no doubt in our mind that as and when such incidents are brought to the notice of Respondent No.1-UIDAI and Respondent No.4-UOI, they would take proactive steps to not only prevent such incidents from happening but would also take appropriate, timely and deterrent measures to prevent anyone from committing such a fraud.

34. In the instant case also, the fraud could have been detected at an early stage had all the Respondents been diligent enough to authenticate the Aadhaar number. However, inaction on the part of the Respondents after having failed in their duty has aggravated the situation even more. We sincerely hope that in the future all concerned authorities would take prompt action when such instances of fraud are brought to their notice. We pray that common citizens of this nation do not suffer agony like the Petitioner.

35. In our view, Respondent No.1 should take steps to make the public aware of the authorities/entities who can insist on Aadhaar number and these authorities/entities who are permitted to use Aadhaar number for authentication should be equipped with necessary technology for authentication and such authentication should be done in accordance with the Aadhaar (Authentication) Regulations of 2021, including the authentication by matching the photograph of the person appearing on the system and comparing the same with the physical presence of the person whose Aadhaar number is being used. This procedure should be adopted by all the authorities/entities who are

entitled to use Aadhaar number for verification. Respondent No.1 should also make public aware as to likely frauds which can be carried out by misuse of the Aadhaar card and the way certain frauds are committed, so that the general public can take appropriate measures. For example, the Reserve Bank of India is regularly using electronic and social media for making public aware of various cyber frauds. Such action can also be adopted by Respondent No.1 for public awareness.

36. We may conclude by observing and hoping that in the future when such frauds are brought to the notice of the authorities and law enforcement agencies by common citizens of this country then the authorities and law enforcement agencies would immediately take steps for finding the people behind such fraud and bringing them to justice and to take steps to prevent occurrence of the same in the near future. Delay in responding to such complaints and inaction in not initiating any criminal proceedings on discovery of such fraud and moreso when fraud is committed on the very statutory and regulatory authorities of this country then, in such a scenario, a higher degree of responsibility is required to be discharged by the officers of the regulatory authorities and enforcement agencies.

37. We may also observe that inspite of service being made on Respondent No.5 being Commissioner of Income-Tax Mumbai and Respondent No.7 being Commissioner of State Tax, Gujarat they chose not to appear. We do not approve of such non-appearance, moreso in matters like this, which is non-adversarial and when the proceedings are in the larger interest of the nation and public.

38. The Delhi High Court in the case of *Anil Kumar vs. GST Commissioner, CGST and Excise & Ors.*¹ had a similar issue to be

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considered and the Court directed the authorities to initiate criminal action against the fraudsters.

39. In view of above, we pass the following order :-

ORDER

- (i) Petitioner to approach the Income Tax Authorities to ascertain whether a different PAN can be issued in place of what is being misused and the Income Tax Department and Respondent No.5 would guide the Petitioner on this issue and if it is not possible to issue, to de-activate the old number and issue a new number, then what steps the Petitioner and Respondent No.5 should adopt to prevent misuse of the PAN number.
- (ii) The attachment order passed by Respondent No.7 for recovery of dues of transactions carried out by unknown person and which is annexed at Exhibit 'ZZ' of this petition is quashed and set aside.
- (iii) Respondent No. 7 is directed not to initiate any proceedings against the Petitioner for the transactions of Metro International Trading Company, the impersonator of the Petitioner.
- (iv) The proceeding before Metropolitan Magistrate in Criminal Case No.18299 of 2020 is directed not to be proceeded with till the Petitioner's complaint made to the Gujarat Police is taken to its logical conclusion and the culprits of the fraud are arrested.
- (v) The GST authorities are directed to delete the Aadhaar number and PAN number of the Petitioner from its portal

against the trade name M/s. Metro International Trading Company.

- (vi) Cost of Rs.10,000/- each is imposed on Respondent Nos.1, 2, 5, 6 and 7 for dereliction in their duty and not initiating any criminal proceedings till today on the fraud being discovered and for non-appearance by Respondent No.5 and Respondent No.7. The cost is to be paid to the Petitioner's bank account details of which will be given by the Petitioner to the Respondent Nos.1 and 6 within a period of two weeks from the date of uploading the order. The Respondent Nos.1 and 6 must first pay costs of Rs.25000/- each to the Petitioner, and then they could recover the costs from Respondent Nos.5, 6 and 7. The cost should be deposited by Respondent Nos.1 and 6 within a period of four weeks from the date the Petitioner furnishes the bank account details.

40. With the hope that in future all the concerned authorities would take prompt action when such fraud surfaces, we pray that, common citizen of this nation does not suffer the mental agony like the Petitioner. The petition is disposed of in the above terms.

(Jitendra Jain, J.)

(M. S. Sonak, J.)