

No.9-10(7)/2014-E&C
Government of India
Ministry of Communication & IT
Department of Telecommunication
(Establishment & Coordination Section)

...
Dated the 5 .10.2015

To


1. CMD, BSNL
2. CMD, MTNL
3. Sr. DDG (TEC), DoT
4. Sr. DDG (TERM), DoT
5. Sr. DDG (NTIPRIT), NTIPRIT
6. All DDsG of TERM Cell
7. Director (Staff), DoT HQ

Subject: Linking of Aadhar numbers

Reference: DoT OM No. 9-10(7)/2014-E&C dated 07.08.2015 and 26.08.2015.

In continuation of above referred OM, the undersigned is directed to circulate the direction received from Department of Expenditure through their OM No. I-11011/112/2013-DBT dated 19.08.2015 along with the copy of interim orders of Hon'ble Supreme Court in Case No. W.P(C) No. 37/2015 tagged with W.P. (C) 494/2012 (Copy enclosed) for its compliance.

Encl: A/a


(Bulley Mishra) 5.10.15
ADG (E&C)

Copy for information to:

1. PPS to Member(S) / Member (T)
2. Director(IT), DoT for uploading on the DoT website

F. 153434/2015 CR
24/8/15

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5(T)

11(5)

No. I-11011/112/2013-DBT
Government of India
Ministry of Finance
Department of Expenditure
DBT Mission

4th Floor, Shivaji Stadium Annexe,
Rajiv Chowk, New Delhi – 110001.

Dated: 19th August 2015.

OFFICE MEMORANDUM

Subject: W. P (C) No. 37/2015 tagged with W.P. (C) 494/2012 - Adherence of the interim orders of Hon'ble Supreme Court - reg.

The undersigned is directed to refer to DBT Mission's O.M. of even number dated 24.3.2015 on the subject mentioned above and to say that the Hon'ble Supreme Court has passed the interim orders on 11th August 2015, wherein certain restrictions have been imposed on the use of information – biometric or demographic – about an individual obtained by the UIDAI while issuing of Aadhaar card for the purposes other than distribution of foodgrains etc., cooking fuel, such as kerosene and LPG Distribution scheme.

2. However, in a large number of databases Aadhaar number has already been populated, as process was going on for some time. In order to keep the databases ready for use in case Hon'ble Court permits its use eventually, following actions may be undertaken:

a. Wherever beneficiary voluntarily gives his / her Aadhaar number, it may be taken and populated in the database.

b. However, the use of Aadhaar number for delivery of services / benefits will be strictly as per the directions of Hon'ble Supreme Court.

Important
ASCT
2- MCT
3. MCF
4. MCB
for compliance
To

DDG
Dr (E&C) 31/8
Dr (S)

(Reedhush Kumar)
Joint Secretary (DBT)
Tel No. 23343860 Extn. 333
31/08

1. Secretaries to all Ministries/Departments of the Government of India
2. Chief Secretaries of all States/Administrators of the UTs

NOO

1. Principal Secretary to Prime Minister
2. PS to Cabinet Secretary
3. PS to Finance Minister
4. PS to Minister of State for Finance

ADG (E&C)

2212-R/MS
28/8/15

S 117-DIV (EXH)
31/8/15

1591c

No. I-11011/112/2013-DBT
Government of India
Ministry of Finance
Department of Expenditure
DBT Mission

4th Floor, Shivaji Stadium Annexe,
Rajiv Chowk, New Delhi – 110001.

Dated: 19th August 2015.

OFFICE MEMORANDUM

Subject: W. P (C) No. 37/2015 tagged with W.P. (C) 494/2012 - Adherence of the interim orders of Hon'ble Supreme Court - reg.

The undersigned is directed to refer to DBT Mission's O.M. of even number dated 24.3.2015 on the subject mentioned above and to say that the Hon'ble Supreme Court has passed the interim orders on 11th August 2015. A copy of the interim orders passed by the Hon'ble Supreme Court is enclosed for compliance.

2. It is stated that under Direct Benefit Transfer (DBT) scheme cash / benefits are transferred in the bank account of the beneficiary with or without Aadhaar, but electronically. Hon'ble Supreme Court has restricted the use of Aadhaar for certain purposes only. Hence, all Departments and Agencies of the Government of India will continue to implement Direct Benefit Transfer – by using Aadhaar where permitted by Hon'ble Supreme Court and by non-Aadhaar electronic means in other cases. State Governments entities may consider implementing DBT accordingly.

(Peeyush Kumar)
Joint Secretary (DBT)
Tel No. 23343860 Extn. 333

Encl. a/a

To

1. Secretaries to all Ministries/Departments of the Government of India
2. Chief Secretaries of all States/Administrators of the UTs

NOO

1. Principal Secretary to Prime Minister
2. PS to Cabinet Secretary
3. PS to Finance Minister
4. PS to Minister of State for Finance

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) & Another ... Petitioners

Versus

Union of India & Others ... Respondents

WITH

TRANSFERRED CASE (CIVIL) NO.151 OF 2013

TRANSFERRED CASE (CIVIL) NO.152 OF 2013

WRIT PETITION (CIVIL) NO.829 OF 2013

WRIT PETITION (CIVIL) NO.833 OF 2013

WRIT PETITION (CIVIL) NO.932 OF 2013

TRANSFER PETITION (CIVIL) NO.312 OF 2014

TRANSFER PETITION (CIVIL) NO.313 OF 2014

WRIT PETITION (CIVIL) NO.37 OF 2015

WRIT PETITION (CIVIL) NO.220 OF 2015

TRANSFER PETITION (CIVIL) NO.921 OF 2015

CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012

CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012

INTERIM ORDER

After the matter was referred for decision by a larger Bench, the learned counsel for the petitioners prayed for further interim

orders. The last interim order in force is the order of this Court dated 23.9.2013 which reads as follows:-

“....

All the matters require to be heard finally. List all matters for final hearing after the Constitution Bench is over.

In the meanwhile, no person should suffer for not getting the Aadhaar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhaar card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant.”

It was submitted by Shri Shyam Divan, learned counsel for the petitioners that the petitioners having pointed out a serious breach of privacy in their submissions, preceding the reference, this Court may grant an injunction restraining the authorities from proceeding further in the matter of obtaining biometrics etc. for an Aadhaar card. Shri Shyam Divan submitted that the biometric information of an individual can be circulated to other authorities or corporate bodies which, in turn can be used by them for commercial exploitation and, therefore, must be stopped.

The learned Attorney General pointed out, on the other hand, that this Court has at no point of time, even while making the interim order dated 23.9.2013 granted an injunction restraining the Unique Identification Authority of India from going ahead and

obtaining biometric or other information from a citizen for the purpose of a Unique Identification Number, better known as "Aadhaar card". It was further submitted that the respondents have gone ahead with the project and have issued Aadhaar cards to about 90% of the population. Also that a large amount of money has been spent by the Union Government on this project for issuing Aadhaar cards and that in the circumstances, none of the well-known considerations for grant of injunction are in favour of the petitioners.

The learned Attorney General stated that the respondents do not share any personal information of an Aadhaar card holder through biometrics or otherwise with any other person or authority. This statement allays the apprehension for now, that there is a widespread breach of privacy of those to whom an Aadhaar card has been issued. It was further contended on behalf of the petitioners that there still is breach of privacy. This is a matter which need not be gone into further at this stage.

JUDGMENT

The learned Attorney General has further submitted that the Aadhaar card is of great benefit since it ensures an effective implementation of several social benefit schemes of the Government like MGNREGA, the distribution of food, ration and kerosene through PDS system and grant of subsidies in the distribution of LPG. It was, therefore, submitted that restraining the respondents from issuing further Aadhaar cards or fully utilising the existing

Aadhaar cards for the social schemes of the Government should be allowed.

The learned Attorney General further stated that the respondent Union of India would ensure that Aadhaar cards would only be issued on a consensual basis after informing the public at large about the fact that the preparation of Aadhaar card involving the parting of biometric information of the individual, which shall however not be used for any purpose other than a social benefit schemes.

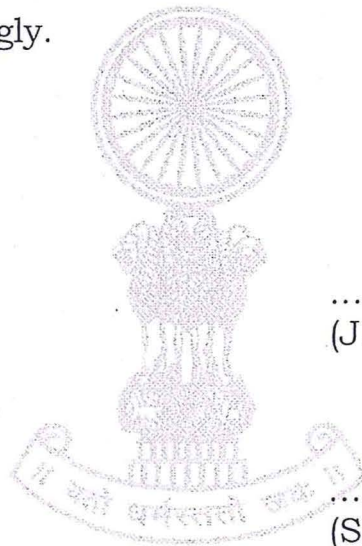
Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or the UIDAI proceed in the following manner:-

1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;
2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;
3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar

card may also be used for the purpose of the LPG Distribution Scheme;

4. The information about an individual obtained by the Unique Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation.

Ordered accordingly.



.....J.
(J. Chelameswar)

.....J.
(S.A. Bobde)

JUDGMENTJ.
(C. Nagappan)

New Delhi
August 11, 2015