

ITEM NO.1

COURT NO.6

SECTION PIL(W)/XVIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 494/2012

JUSTICE K.S.PUTTASWAMY (RETD) & ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for stay, impleadment, clarification/modification of Court's order, intervention, directions, impleadment, permission to file additional documents and office report)
(For Final Disposal)

WITH

T.C.(C) No. 151/2013

(With impleadment as party respondent and modification of Court's order)

T.C.(C) No. 152/2013

W.P.(C) No. 829/2013

(With appln.(s) for impleadment and impleadment/directions and interim relief and office report)

W.P.(C) No. 833/2013

(With appln.(s) for impleadment and appln.(s) for permission to file additional documents and Office Report)

W.P.(C) No. 932/2013

(With appln.(s) for directions and interim directions and Office Report)

T.P.(C) No. 312/2014

(With Office Report)

T.P.(C) No. 313/2014

(With Office Report)

W.P.(C) No. 37/2015

(With amendment of memo of parties and interim stay and permission to file additional documents and office report)

W.P.(C) No. 220/2015

(Directions)

T.P.(C) No. 921/2015
(Office report)

Contempt Petition(C) No. 144/2014 in W.P.(C) No. 494/2012
(Directions)

Contempt Petition(C) No. 470/2015 in W.P.(C) No. 494/2012
(With appln(s) for exemption from filing O.T.)

Date : 11/08/2015 These petitions were called on for
pronouncement of orders today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s)

WP(C) No. 829/2013 Mr. Shyam Divan, Sr. Adv.
Mr. Aayush Agarwal, Adv.
Ms. Prasanna S., Adv.
Ms. Niharika, Adv.
Mr. Pratap Venugopal, Adv.
Mr. Gaurav Nair, Adv.
For M/s. K.J. John & Co.

WP(C) no. 37/2015 Mr. Gopal Subramaniam, Sr. Adv.
Ms. Aishwarya Bhati, Adv.
Mr. Talha Abdul Rahman, Adv.
Mr. Prateek Chaddha, Adv.
Mr. Ankur Kashyap, Adv.
Mr. Kushagra Pandey, Adv.
Ms. Anusha Ramesh, Adv.
Mr. Rudra Pratap, Adv.
Mr. Saransh Kumar, Adv.
Mr. Anirban Sen, Adv.
Ms. Neha Meena, Adv.
Ms. Madhurima Ghosh, Adv.
Mr. T. Gopal, Adv.

WP(C) no. 494/2012 Mr. Soli Sorabjee, Sr. Adv.
Mr. Anil B. Diwan, Sr. Adv.
Mr. Ankit Goel, Adv.
Mr. Sanjay Kumar Yadav, Adv.
Mr. Anish Kumar Gupta, Adv.

TP(C) No. 151/2013 Mrs. Geetha Kovilan, Adv.
Mr. P.R. Kovilan, Adv.

TP(C) No. 921/2015 Ms. Pinky Anand, ASG
Mr. A.K. Sanghi, Sr. Adv.
Mr. S.S. Rawat, Adv.
Mr. D.S. Mahra, Adv.

TC(C) No. 152/2013 Ms. Meenakshi Arora, Sr. Adv.
Mr. Rahul Narayan, Adv.
Mr. Mohit Singh, Adv.

Mr. Vijay Kumar, Adv.

Mr. Amit Meharia, Adv.
Mr. Dhritiman Das, Adv.
for M/s. Meharia & Company, Adv.

WP(C) no. 932/2013 Dr. Abhishek Atrey, Adv.
CC(C) no. 470/2015 Mr. Sella Kumar, Adv.
Mr. Sumit Rajora, Adv.

For Respondent(s)

UOI

Mr. Mukul Rohatgi, AG
Ms. Pinky Anand, ASG
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Mr. Ajay Sharma, Adv.
Mr. S.S. Rawat, Adv.
Ms. Devanshi Singh, Adv.
Ms. Binu Tamta, Adv.
Mr. Zoheb Hossain, Adv.
Ms. Kritika Sachdeva, Adv.
Ms. Ranjeeta Rohatgi, Adv.
Mr. Vakul Sharma, Adv.
Ms. Meenakshi Grover, Adv.
Mr. Karan Seth, Adv.
Mr. D.S. Mahra, Adv.

IA no. 11/2014 Mr. K.K. Venugopal, Sr. Adv.
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Ms. Prerna Priyadarshini, Adv.
Mr. Ankur Talwar, Adv.
Ms. Nidhi, Adv.
Ms. Savita Singh, Adv.

State of Telangana Mr. S. Udaya Kumar Sagar, Adv.
Mr. Krishna Kumar Singh, Adv.

RBI	Mr. Jayant Bhushan, Sr. Adv. Mr. Kuldeep S. Parihar, Adv. Mr. H.S. Parihar, Adv.
NCT of Delhi	Mr. J.M. Kalia, Adv.
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A&N Administration	Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, Adv.
State of Assam	M/s. Corporate Law Group
State of HP	Mr. J.S. Attri, Sr. Adv. Mr. Suryanarayana Singh, Sr. AAG Mr. Varinder Kumar Sharma, Adv. Ms. Pragati Neekhara, Adv.
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State of AP	Mr. Guntur Prabhakar, Adv. Ms. Prerna Singh, Adv.
State of Uttarakhand	Mr. Jatinder K. Bhatia, Adv.
State of TN	Mr. B. Balaji, Adv. Mr. R. Rakesh Sharma, Adv. Mr. Mishra Saurabh, Adv.
State of Manipur	Mr. Sapam Biswajit Meitei, Adv. Mr. Z.H. Isaac Haiding, Adv. Mr. S. Vijayanand Sharma, Adv. Mr. Ashok Kumar Singh, Adv.
State of Mizoram	Mr. K.N. Madhusoodhanan, Adv. Mr. T.G.N. Nair, Adv.

State of Sikkim	Mr. A. Mariarputham, AG Ms. Aruna Mathur, Adv. Mr. Yusuf Khan, Adv. Mr. K. Vijay Kumar, Adv. M/s.Arputham Aruna & Co.
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ECI	Mr. Ashok Desai, Sr. Adv. Mr. S.K. Mendiratta, Adv. Ms. Monisha Nanda, Adv. Mr. Mohit D. Ram, Adv. Mr. Sajjan Poovayya, Sr. Adv. Mr. Praveen Sehrawat, Adv. Mr. Priyadarshi Banerjee, Adv. Mr. Sarans Jain, Adv.
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State of Kerala	Mr. Jogy Scaria, Adv. Mr. Reegan S. Bel, Adv.
State of Punjab	Mr. Sanchar Anand, AAG Mr. Apoorv Singhal, Adv. Mr. Jagjit Singh Chhabra, Adv.
State of Jharkhand	Mr. Ajit Kumar Sinha, Sr. Adv. Mr. Tapesk Kumar Singh, Adv. Mr. Mohd. Waquas, Adv.
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IA No. 5/2014 in
WP(C) no. 833/2013

Mr. Praveen Sehrawat, Adv.
Mr. Priyadarshi Banerjee, Adv.

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Ms. Anitha Shenoy, Adv.

State of WB

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Ms. Anjali Chauhan, Adv.
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Mr. Milind Kumar, Adv.
Ms. Ruchi Kohli, Adv.

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Mr. Kamal Mohan Gupta, Adv.

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Mr. Amit Sharma, Adv.

Mr. T.G. Narayan Nair, Adv.

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UPON HEARING the Counsel The Court made the following

O R D E R

10.30 a.m.

By a reasoned order, the matters are referred to a Bench of appropriate strength.

Having regard to importance of the matter, it is desirable that the matter be heard at the earliest.

2.00 p.m.

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 consideration 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.

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.

(DEEPAK MANSUKHANI)
COURT MASTER

(INDU BALA KAPUR)
COURT MASTER

(Three signed reportable Orders are placed on the file)