

[2017] 10 S.C.R. 1000

A JUSTICE K S PUTTASWAMY (RETD),
AND ANR

v.

B UNION OF INDIA AND ORS
(Writ Petition (Civil) No. 494 of 2012)

DECEMBER 15, 2017

[DIPAK MISRA, CJI, A. K. SIKRI, A. M. KHANWILKAR,
DR. D. Y. CHANDRACHUD, ASHOK BHUSHAN, JJ.]

C Aadhaar (Targeted Delivery of Financial and other Subsidies,
Benefits and Services) Act, 2016 – Aadhaar linkage – Deadline –
Extended – The deadline for Aadhaar linkage with all schemes of
its Ministries/Departments extended until 31st March 2018 – As
D regards Aadhaar linkage with bank accounts, for existing bank
accounts, the last date for the completion of the process extended
to 31st March 2018 – As regards Aadhaar linkage with new bank
accounts, subject to submission of the details in regard to filing of
the application for an Aadhaar card and furnishing of the
application number to the account opening bank, the last date for
the completion of the process of Aadhaar linking of new bank
E accounts extended to 31st March 2018 – As regards Aadhaar based
E-KYC for mobile phone subscribers, the deadline extended to 31st
March 2018 – Consistent with the above directions, the extension
of the last date for Aadhaar linkage to 31st March 2018 shall apply,
besides the schemes of the Ministries/Departments of the Union
F government to all state governments in similar terms – The above
arrangement shall continue to operate pending the disposal of the
proceedings before the Constitution Bench.

Lokniti Foundation v. Union of India and Another
(2017) 7 SCC 155 – referred to.

G Case Law Reference

(2017) 7 SCC 155 referred to Para 9

CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No.
494 of 2012.

H Under Article 32 of the Constitution of India.

JUSTICE K S PUTTASWAMY (RETD) v. UNION OF INDIA 1001

WITH

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T. C. (C) Nos. 151, 152, 1797, 1796 of 2013, W. P. (C) Nos. 833, 829, 932 of 2013, Contempt Petition (C) No. 144 of 2014, T. P. (C) Nos. 313, 312 of 2014, SLP (Crl.) No. 2524 of 2014, W. P. (C) Nos. 37, 220 of 2015, Contempt Petition (C) No. 674 of 2015, T. P. (C) No. 921 of 2015, Contempt Petition (C) No. 470 of 2015, Contempt Petition (C) No. 444, 608 of 2016, W. P. (C) No. 797 of 2016, Contempt Petition (C) No. 844 of 2017, W. P. (C) No. 342, 372, 1058, 966, 1014, 1002 and 1056 of 2017.

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K. K. Venugopal, Attorney General for India, Jugal Kishore Gilda, Adv. Gen., Anil Grover, Shiv Mangal Sharma, AAGs, Shyam Divan, Gopal Subramaniam, K. V. Vishwanathan, Sanjay R. Hegde, Ms. Meenakshi Arora, Arvind Datar, Anand Grover, Sajan Poovayya, Jayant Bhushan, C. A. Sundaram, J. S. Attri, K.T.S. Tulsi, Rakesh Dwivedi, Arvind Datar, Sr. Advs. Vipin Nair, P. B. Suresh, Udayaditya Banerjee, S. Prasanna, Ms. Samiksha Godiyal, Ms. Samiksha Godiyal, Prithu Garg, Abhay Pratap Singh, Govind Manoharan, Pratap Venugopal, Prasanna S., Ms. Samiksha Godiyal (for M/s. K.J. John And Co.), Mayank Aggarwal, Pradeep Kr. Aggarwal, Ms. Aishwarya Bhati, Jaideep Singh, Gp. Capt. K.S. Bhati, T. Gopal, Amit Verma, Ms. Tanuja Patra, Dinesh Kumar, Ms. Ritu Apurva, Prashant Bhushan, Omana Kuttan K.K., Govind Jee, Abhishek Atrey, Shadan Farasat, Ms. Vrinda Bhandari, Prasanna, Ms. Jyoti Mendiratta, Anish Kumar Gupta, Avdhesh Kumar Singh, R.K. Rajwanshi, Chandra Shekhar Suman, Ms. Deep. Shikha Bharti, Ms. Rita Gupta, Pranjal Kishore, Ms. Archana Pathak Dave, Talha Abdul Rahman, Ankur Kashyap, Prateek Chadha, Jayavardhan Singh, Pawan Bhushan, P.R. Kovilan Poonkuntran, Ms. Awasthi M. K., V. Vasudevan, Mrs. Geetha Kovilan, Rahul Narayan, Apar Gupta, Shashwat Goel, Gautam Bhatia, Ms. Annaya Ghose, Ms. Bhawna, Anand Sethi, Pranaya Kumar Mohapatra, Mrs. Pragya Baghel, Prasanna S., Deepayan Mandal, Anando Mukherjee, Ms. Stuti Vatsa, T. V. S. Raghavendra Sreyas, Mrs. Gayatri Gulati Sreyas, N. Sai Vinod, Amit Meharia, Ms. Tanishtha Singh, Ms. Rishita (for M/s. Meharia & Company), Zoheb Hossain, Ankur Talwar, Ms. Shraddha Deshmukh, Mrs. Anil Katiyar, A. Gulati, K. Dangwal, Piyush Goyal, Ms. Palesh Maheshwari, Fahad Khan, Rajat Nair, M/s. Lawyer S Knit & Co, Ms. Tanishtha Singh, Ms. Rishita (for M/s. Meharia & Company), Priyadarshi Banerjee, Prati Bhanu S. Kaarola, Saransh Kumar, Saransh Jain, Madhavam Sharma,

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- A Ramakrishna Meka, Pratik Rajopadhyay, E. C. Agrawala, Milind Kumar, M. Shoeb Alam, Ms. Fauzia Shakil, Ujjwal Singh, Mojahid Karim Khan, Dinkar Kalra, Ms. Vimla Sinha, Gopal Singh, Rituraj Biswas, Ms. Rashmi Singhanian, Ketan Paul, Ms. Reeja Varghese, Chirayu Jain, Tushar Bhushan, Mr. Kuldeep S. Parihar, H. S. Parihar, Bhagirath Patel, Mohit D. Ram, S. Udaya Kumar Sagar, Ms. Bina Madhavan, Ms. Elizabeth B
- Antony, Guntur Prabhakar, Tapesk Kumar Singh, Aditya Pratap Singh, Gopal Sankaranarayanan, Ms. Savita Singh, Shrutunjay Bhardwaj, Shanu Agrawal, Ms. Veera Mahuli, Jayant Mohan, Sanjay Kapur, Ms. Megha Karnwal, Ms. Mansi Kapur, Ms. Shubhra Kapur, Nishant Ramakantrao Katneshwarkar, Ms. Deepa M. Kulkarni, Ms. Rohini Misra, Ranjan C
- Mukherjee, K. N. Madhusoodhanan, Ms. Nitya Madhusoodhanan, T. G. Narayanan Nair, V. G. Pragasan, S. Prabu Ramasubramanian, S. Manuraj, Jagjit Singh Chhabra, Jatinder Kumar Bhatia, Ashutosh Kumar Sharma, Abhinav Mukerji, Mishra Saurabh, Manish Vashishtha, Satish Kumar, Ms. Noopur Singhal, Sanjay Kumar Visen, K. V. Vijayakumar, Ms. Maitreyee Mishra, Karan Bharihoke, Ms. Ruchi D
- Kohli, Shamit Mukherjee, Manoj K. Mishra, Ms. Aruna Mathur, Avneesh Arputham, Ms. Anuradha Arputham, Ms. Simran Jeet (for M/s. Arputham Aruna And Co), Varinder Kumar Sharma, Chander Nand Jha, Fuzail Ahmed Ayubbi, Ms. Ashima Mandla, Ibad Mushtaq, Ms. Pallavi Malhotra, Ms. Mandakini Singh, Ms. Priyanka Aggarwal, Siddhant E
- Sharma, G. Bhargava, A. Garaz Khan, Navandeep Singh Matta, Kuber Buuddh, M/S. Corporate Law Group, Aniruddha P. Mayee, Chirag Jain, Garvesh Kabra, Harish Pandey, R. Sudhinder, Ashok Mathur, Ms. Amrita Sarkar, Lalit Mohapatra, Ms. Prachi Priyadarshini, Anip Sachthey, Ms. Jesal Wahi, Ms. Sanskriti, Ms. Shodhika Sharma, Ms. Hemantika F
- Wahi, Ms. Anitha Shenoy, Dr. (Mrs.) Vipin Gupta, Soumitra G. Chaudhuri, Amit Sharma, Dipesh Sinha, Ms. Ayiala Imti, Nishe Rajen Shonker, Ms. Anu K. Joy, Reegan. S. Bel, Subash, Nipun Saxena, Namit Saxena, Ms. Pallavi Pratap, Devanshu Sajlan, Jogy Scaria, Wills Mathews, Rabin Majumder, Mrs. Vanita Bhargava, Ajay Bhargava, Ms. Abhisar Bairagi (for M/S. Khaitan & Co.), Harsh Kaushik, K. R. Sasiprabhu, Koshy G
- John, Ms. Anusha Natarajan, Mrs. Pragya Baghel, Bhupesh Narula, K.V. Jagdishvaran, Mrs. G. Indira, Dr. Lalit Bhasin, Ms. Nina Gupta, Ms. Palak Chadha, Mudit Sharma, Leishangthem Roshmani Kh., Ms. Maibam Babina, Chanchal Kumar Ganguli, Advs. for the appearing parties.

Intervenor-in-person.

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Applicant-in-person.

The Order of the Court was delivered by

DR. D. Y. CHANDRACHUD, J. 1. We have heard submissions on interim relief. The prayer for interim relief at this stage is essentially based on the earlier orders of this Court dated 23 September 2013, 24 March 2014, 16 March 2015, 11 August 2015 and 15 October 2015. The interim directions dated 15 October 2015 were issued by a Constitution Bench. The primary submission of the petitioners is that in terms of the interim order of the Constitution Bench: (i) Aadhaar Cards could permissibly be utilized only for six schemes (two of them provided for in the order dated 11 August 2015 and four in the order dated 15 October 2015); (ii) the Union Government was directed to strictly follow the earlier orders of this Court commencing from 23 September 2013; and (iii) the Aadhaar card scheme was to be purely voluntary and could not be made mandatory until the matter is finally decided by this Court.

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2. Mr Shyam Divan, learned senior counsel urged that since the interim order dated 15 March 2015 governs the field it was the obligation of the Union government to seek a variation of the interim directions after the enactment of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 before making it mandatory to uplink or provide details of the Unique Identification Number/Aadhaar card for all purposes.

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3. Mr Gopal Subramaniam, learned senior counsel while advancing the same submission urged that the issue involves the paramountcy of the Court and of the judicial process. In the submission of the learned counsel, the exercise of the judicial power in the form of the interim order dated 15 October 2015 (and the earlier orders) was to insulate citizens against any form of compulsion, this being in aid of protecting their fundamental rights.

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4. Mr Arvind Datar, Mr KTS Tulsī, Mr Anand Grover, Mr KV Viswanathan, Ms Minakshi Arora and Mr Sanjay Hegde, among other learned counsel urged submissions on various facets in support of the prayer for interim relief.

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5. On the other hand, Mr K K Venugopal, the learned Attorney General for India urges that the interim directions were issued in the

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A absence of a legislative framework. After Parliament has enacted the Aadhaar Act, 2016 (which came into force on 12 July 2016) the interim orders would, in his submission, not pose any impediment to enforcing the provisions of the law, duly enacted. Moreover, the reasonableness of each notification would have to be justified by the department concerned. The learned Attorney General has been supported in his
B submissions by Mr Aryama Sundaram, learned senior counsel appearing on behalf of UIDAI and Mr Rakesh Dwivedi, learned senior counsel.

6. Having due regard to the importance of the issues which have been raised in the case, which has led to the judgment of nine Judges of this Court on 24 August 2017¹, we are of the considered view that the
C resolution of the issues raised before the Court should proceed at the earliest, after the Court reassembles in January 2018. This will ensure clarity for citizens on the one hand and for the Union and the state governments and the instrumentalities on the other hand.

7. Learned senior counsel appearing on behalf of the petitioners
D as well as the learned Attorney General for India and all the other counsel supporting his submissions have agreed to the suggestion of the Court that the final hearing of the case commence on 17 January 2018. We direct accordingly.

8. The matter which needs consideration in the meantime is the
E interim arrangement which should govern the field.

9. The learned Attorney General for India has stated that :

(i) The Union government has extended the deadline for Aadhaar linkage with all schemes of its Ministries/Departments until 31 March
F 2018;

(ii) As far as Aadhaar linkage with bank accounts is concerned, for existing bank accounts, the last date for the completion of the process may be extended to 31 March 2018;

(iii) In so far as new bank accounts are concerned, while the last
G date for completing the process of Aadhaar linking may be extended until 31 March 2018, persons desirous to open new accounts shall produce proof to the bank of an application having been submitted for obtaining an Aadhaar card together with the application number which shall be supplied to the account opening bank; and

H ¹(2017) 10 SCC 1

JUSTICE K S PUTTASWAMY (RETD) v. UNION OF INDIA 1005
[DR. D. Y. CHANDRACHUD, J.]

(iv) As regards Aadhaar based E-KYC for mobile phone subscribers, as held by a Bench of two learned Judges of this Court by its order dated 6 February 2017 in **Lokniti Foundation v Union of India and Another**², the process of completing the E-KYC process is to be completed by 6 February 2018. The Union government informs the Court, that consistent with the extension of the deadline to 31 March 2018 in other cases, this Court may consider passing appropriate orders.

10. In terms of (i) and (ii) above, we accept the statement of the learned Attorney General for India and order accordingly.

11. In terms of (iii) above, subject to the submission of the details in regard to the filing of an application for an Aadhaar card and the furnishing of the application number to the account opening bank, we likewise extend the last date for the completion of the process of Aadhaar linking of new bank accounts to 31 March 2018.

12. In terms of (iv) above we extend the date for the completion of the E-KYC process in respect of mobile phone subscribers until 31 March 2018.

13. Consistent with the above directions, we also direct that the extension of the last date for Aadhaar linkage to 31 March 2018 shall apply, besides the schemes of the Ministries/Departments of the Union government to all state governments in similar terms. As a consequence of the extension of the deadline to 31 March 2018, it is ordered accordingly.

14. We also clarify that in so far as the provisions of Section 139 AA of the Income Tax Act, 1961 are concerned, the matter stands governed by the judgment of this Court in **Binoy Visman v Union of India**³.

15. The above arrangement shall continue to operate pending the disposal of the proceedings before the Constitution Bench.

16. The Registry shall list the entire batch of connected cases for final hearing on 17 January 2018.

Devika Gujral

Directions issued.

² (2017) 7 SCC 155

³ Writ Petition (C) No. 247 of 2017