

# ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI -110001

No. 23/1/2015(NERPAP)-ERS

Dated: 13<sup>th</sup> August, 2015

To,

The Chief Electoral Officers of  
All States and Union Territories.

Subject: National Electoral Rolls Purification & Authentication Programme (NERPAP) –  
Collection of Aadhaar Number from the applicants - regarding

Sir/Madam,

I am directed to refer to the Commission's letter No. 23/1/2015-ERS dated 27<sup>th</sup> February, 2015 issuing detailed guidelines for National Electoral Rolls Purification & Authentication Programme (NERPAP) activities launched on 3<sup>rd</sup> March, 2015. One of the major objectives of NERPAP is linking and authentication of EPIC data of electors with Aadhaar data of UIDAI. For this purpose, currently Aadhaar Number of electors is being collected through various modes throughout the country.

2. In this connection, I am to state that the Hon'ble Supreme Court of India, while considering Writ Petition (Civil) No. 494 of 2012 (Justice K.S. Puttaswamy (Retd.) & Another v/s Union of India & Others), has, by way of an interim measure, passed, *interalia*, the following Order on 11<sup>th</sup> August, 2015 -

**“.....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;**

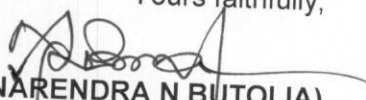
**4. The information about an individual obtained by the Unique Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation;”**

3. Accordingly, in the light of the above Order, the Commission has directed the following –

(i) All further activities relating to collection/feeding/seeding of Aadhaar Number being undertaken currently under NERPAP shall be suspended with immediate effect till further directions from the Commission. In other words, henceforth no more collection of Aadhaar Numbers from electors or feeding/seeding of collected Aadhaar data shall be done by any election authority or official connected with the NERPAP.

- (ii) No Aadhaar data shall be collected from any other agency/data hub/organization of Central Government/State Government, nor should the data collected so far be used for any authentication/other purpose.
- (iii) So far maintenance of data security and confidentiality of Aadhaar data, already collected from electors or from some other Government Departments/Agencies is concerned, the Commission's instructions contained in letter No. 23/1/2015(NERPAP)-ERS dated 22<sup>nd</sup> May, 2015 shall be adhered to scrupulously by all election officials involved in the activity.
- (iv) All DEOs, EROs, AEROs, BLOs and other field level electoral machinery shall be sensitized of the Commission's above instructions for strict compliance. Any violations of these instructions will be viewed seriously by the Commission and attract disciplinary action.
- (v) Proper publicity shall be given to disseminate the Commission's above instructions. A Press Note shall be issued by CEOs and DEOs clarifying the position in the wake of the Supreme Court's Order, referred to above, for information and compliance by all concerned.
- (vi) All publicity being done in respect of NERPAP activities relating to collection of Aadhaar Number shall be stopped immediately and all publicity material pertaining thereto, available on CEO's website shall be withdrawn. Information about suspension of this activity should be displayed on the website and notice boards in the offices of DEOs and EROs/AEROs.
- (vii) Other activities of NERPAP for purification except collection/feeding/seeding of Aadhaar Number, will continue and be carried out during the period of Continuous updation and special Summary Revision, 2016.
4. These instructions shall be brought to the notice of all concerned. All concerned will ensure strict compliance of order of Hon'ble SC as stated above. (A copy annexed)
5. Kindly acknowledge receipt of the letter and ensure strict compliance.

Yours faithfully,

  
(NARENDRA N BUTOLIA)  
SECRETARY

**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.

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 UIDA 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)

.....J.  
(C. Nagappan)

New Delhi  
August 11, 2015