

IN THE SUPREME COURT OF INDIA
I.A. NO. OF 2018
IN
WRIT PETITION (CIVIL) 494 OF 2012

IN THE MATTER OF:

Justice K.S. Puttaswamy & Anr.

Petitioners

Versus

Union of India & Ors.

Respondents

AND

In the Matter of:

Joshita M Pai

...Applicant

PAPERBOOK
ALONG WITH
AN APPLICATION FOR INTERVENTION
(FOR DETAILED INDEX: KINDLY SEE INSIDE)

ADVOCATE FOR THE APPLICANT: MS. APARNA BHAT

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A-11, L.G.F,
Neeti Bagh,
Delhi-110049

APPLICATION FOR INTERVENTION

TO

THE HON'BLE CHIEF JUSTICE OF INDIA AND
HIS COMPANION JUSTICES OF THE HON'BLE
SUPREME COURT OF INDIA

THE HUMBLE APPLICATION
OF THE APPLICANT ABOVE
NAMED

MOST RESPECTFULLY SHOWETH:

1. That the petition mentioned herein is pending before this Hon'ble Court before a Constitution Bench.

2. That the applicant herein is a practicing advocate and has been researching and working on aspects concerning Privacy, Data Protection and fields concerning thereto. She has been closely examining the discourse around the Aadhaar initiative. This present application is being made the context of the demands made by the schools in India seeking Aadhaar information of the children enrolled in schools on the directive by the CBSE and the Ministry of Human Resource Development.
3. That the Central Board of Secondary Education released a circular dated 09.05.2017 wherein it announced that all CBSE affiliated schools across the country shall function as 'Aadhaar Enrollment Centres', to facilitate the implementation of the National Project on Aadhaar. The circular dated 09.05.2017 issued by the Central Board of Secondary Education is appended herewith and marked as **ANNEXURE A-1**.
4. That in the light of this circular and other communications apparently made in the interim by the Ministry of Human Resource and Development, the UIDAI, the Directorate of Education and the State Level Departments, several schools have mandated the production of Aadhaar details at the time of enrollment of the students and of students who have been admitted to schools. Samples of circulars notifying schools and of schools informing the parents is appended to and marked with as **ANNEXURE A-2**.
5. That there exist no reasonable nexus between the object behind the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 and the mandatory linking of a student's profile to Aadhaar. The object, as appended to the legislation reads:

"An Act to provide for, as a good governance, efficient, transparent, and targeted delivery of subsidies, benefits and

services, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of unique identity numbers to such individuals and for matters connected therewith or incidental thereto.”

6. That the mandatory requirement of a student's Aadhaar does not fall within the ambit of the object of the Act. That the admission and enrollment to schools is not conceivable as a service/subsidy/benefit delivered by the Government, Central or State. That as much as the Act accommodates an indistinct provision for inclusion of other schemes in the future within the ambit of the Act, the education provided by schools, is not an entitlement bestowed by the Government upon the students.
7. That neither the schools that are bound by the directives and circulars nor the Ministries and Departments, which concern them, have communicated the purpose of profiling the biometric and demographic data as maintained in the Central Identities Data Repository, of a student.
8. That the imposition of this mandate has been stretched beyond limits and plethora of such directives have been received in different schools. Newspaper articles shedding light on the demand for Aadhaar at the school level is annexed and marked herewith as **ANNEXURE A-3**.
9. That this Hon'ble Court, through various interim orders has in the course of the proceedings, confined the scope of application of Aadhaar to various schemes, and the contention on mandatory linking of Aadhaar is being presently pending before this Hon'ble Court.

10. That the Court had through its order dated 15.12.2017 accepting the proposition of the Union Government, directed that the deadline for Aadhaar linkage with all schemes of its Ministries/Departments be extended to 31st March 2018. The Court had further directed that the extension until 31st March 2018 shall apply “to all state governments in similar terms”.
11. That the order also explicitly specified that this “arrangement shall continue to operate pending the disposal of the proceedings before the Constitution Bench.” The order of the Supreme Court dated 15.12.2017 is annexed and marked as **ANNEXURE A-4**.
12. That in addition to requirement from all the students enrolled in the schools to compulsorily fill in their Aadhar data, even the admission process for Nursery for the academic year 2017-18 at schools still made it mandatory for providing information of Aadhaar of both the parents and the child. It is submitted that this is in clear contradiction to the stand taken by the Union of India before this Hon’ble Court.
13. That in any event, the requirement of Aadhar information of the children by the schools does not stand in line with the argument that is being made in the Court or the objects of the Act. While the stand in the Court is about national security, the objects of the Act is about delivery of services to persons. It is submitted that both these aspects do not concern the children, especially those who are not seeking any subsidized services from the State. Children upto the age of 18 are not permitted by law to enter into any contracts, operate bank accounts, own properties or conduct any transaction unless an adult is overseeing the same. Even minor

nominees have to necessarily have adult guardian to be able to be nominated for any account. In this background, it is beyond the comprehension of the applicant for the mandatory aadhaar linking of children through the schools.

14. That the often-expressed rationale by the Union Government on the question of integrating Aadhaar number with other schemes has been 'in the interest of National Security'. However, the requirement of furnishing Aadhaar details of students in schools does not align with the alleged concern over National Security. The nexus between the two are unquestionably not construable.

15. That the students are being compelled to produce their Aadhaar details for unspecified purpose and such linking of a student's Aadhaar information with a student's school records is not viable and will enable profiling of the children's records.

16. That there exists no basis to compel the production of Aadhaar especially in the light of the ongoing proceedings.

17. That it is hence prayed that the applicants herein be permitted to intervene in the present petition to address and assist the course of the petition before this Hon'ble Court.

PRAYER

In view of the facts and circumstances stated hereinabove, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to :-

- a. Allow this application and permit the applicant to intervene in the present petition;
- b. And pass any such order or orders as this Hon'ble Court may deem fit in the facts and circumstances of the case;

AND FOR THIS ACT OF KINDNESS, THE APPLICANT SHALL, AS IN DUTY BOUND EVER PRAY

FILED ON:

FILED BY: