**CASE ANALYSIS OF PUTTASWAMY V. UNION OF INDIA**

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By: -

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Submission on: - 26th April, 2020

**BACKGROUND OF THE CASE**

Justice K. S. Puttaswamy and Anr. V. Union of India is a milestone case and the judgment was given by the Hon'ble Supreme Court of India. The judgment given for the situation by the Bench gave another point of view to the Right to Privacy of the residents. It was held that the Right to Privacy is a Fundamental Right under Articles 14, 19 and 21 of the Indian Constitution.

The Hon'ble Court maintained the Aadhaar Act and stuck down the arrangement of the Act which was unlawful. It was held by the Court that the Right to Privacy of the residents must be ensured as a characteristic piece of the privilege to life and individual freedom under Article 21 and as a piece of the opportunities ensured by Part III of the Constitution. The Court unequivocally overruled the past milestone decisions of the Supreme Court **Kharak Singh V.State of UP[[1]](#footnote-2)** and **M.P Sharma V. Satish Chandra[[2]](#footnote-3)** in which it was held that Right to Privacy is certainly not a Fundamental Right of the residents under the Indian Constitution.

**STATEMENT OF FACTS**

'One of a kind Identification for BPL Families' was a venture which was started by the Government of India. A Committee was set up for the venture. The formation of a Unique Identification database was recommended by the Committee for the said venture. The undertaking was chosen to be set up in three stages.

In January 2009, the Planning Commission of India passed a notice on UIDAI (Unique Identification Authority of India). In 2010, the National Identification Authority of India Bill was passed by the Commission. Resigned Justice K S Puttaswamy and Mr. Parvesh Sharma in November 2012 recorded a PIL Writ Petition in the Supreme Court testing the legitimacy of Aadhaar.

The plan was tested as it was violative of Fundamental Rights. The plan damaged the privilege to protection under Article 21 of the Indian residents. Subsequent to recording this writ appeal, a progression of requests was passed. The Aadhaar Act was passed in 2016. The applicants at that point documented another writ request testing the vires of the Act. This writ appeal was then converged with the past one and was treated as one writ request.

Jairam Ramesh who was the Former Union priest and Congress pioneer moved Supreme Court in May 2017. He moved the choice to treat the Aadhaar Bill as a cash bill.

On 24th August 2017, the Supreme Court decided that the privilege to security is a Fundamental Right under Article 21 of the Indian Constitution. On seventeenth January 2018, the knowing about Aadhaar Case was begun in Supreme Court. The Supreme Court on 25th April 2018 scrutinized the Center on connecting the Aadhaar with portable. On 26th September 2018, the Supreme Court held Aadhaar card to be substantial however struck down specific arrangements, for example, obligatory connecting of Aadhaar with portable, financial balances and school affirmations.

**ISSUES RAISED BEFORE THE COURT**

* Regardless of whether the Aadhaar Project has a penchant to make a reconnaissance state and is in this way illegal dependent on this ground?
* Regardless of whether the Aadhaar Project abuses the privilege to protection of the residents and is unlawful dependent on this ground?
* Regardless of whether Section 7 and 8 of the Aadhaar Act additionally incorporates kids?
* Regardless of whether the accompanying arrangements and Regulations of the Aadhaar Act are unlawful:

1. Section 2(c) and 2(d) read with Section 32;
2. Section 2(h) read with Section 10 of the Act-Central Identities Data Repository (CIDR);
3. Section 2(v), Section 3, Section 5, Section 6, Section 8, Section 9;
4. Section 11 to 23;
5. Section 23 and 54;
6. Section 23(2)(g) read with Chapter VI and VII;
7. Section 29, Section 33, Section 47, Section 48, Section 57, Section 59

* Regardless of whether the Aadhaar Act can be treated as a 'Cash Bill' inside the significance of Article 110 of the Indian Constitution?
* Regardless of whether Section 139AA of the Income Tax Act, 1961 disregards the privilege to protection of the residents under the Indian Constitution?
* Regardless of whether Rule 9(a) of the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 and the notices gave from that point, which order connecting of Aadhaar with financial balances, are legitimate under the Indian Constitution?
* Regardless of whether Circular dated March 23, 2017, gave by the Department of Telecommunications which commands the connecting of the portable number of the residents with Aadhaar is unlawful and illegal?
* Regardless of whether certain moves which were made by the respondents are in contradiction of the interval orders passed by the Court?

**Disputes by Parties on issues**

**PETITIONER: -**

The applicants fought that the arranging of the Aadhaar Act by its very prudence is probabilistic in nature. The Act expects to broaden appropriations, advantages, and administrations to society. It is conceivable that instead of giving these advantages, sponsorships, and administrations to the area of society for which these are implied, it might wind up barring them from getting such recipients.

The primary contentions were that the Act may remove the rights and freedoms of the residents of the nation which are ensured to them under the Indian Constitution. Exacting usage of the Aadhaar Act can be a difficult issue as it is in opposition to the Fundamental Rights which are given in the Indian Constitution to the residents of the nation.

The Aadhaar was in repudiation to the Constitution and could empower a nosy state to turn into a reconnaissance express (a state wherein the Government can screen the exercises of its residents) in view of the data that would be gathered from every person by making a joint electronic work.

It was fought that the Right to Privacy of the residents was being damaged. Right to Privacy is an indispensable piece of Article 21 of the Indian Constitution for example Right to life and freedom. The Act forces limitations that are not given under Article 19 as sensible limitations. In the event that any limitation is forced, at that point it is significant that it fulfills the prerequisites of Article 14 and 19 of the Indian Constitution. It is additionally significant that the law which forces such a limitation must be reasonable, just and sensible.

In the current case, the limitations which are forced by the Government through the Aadhaar Act don't fall under sensible limitations and are subjective and irrational. There isn't any sensible order as there is no nexus between the arrangement of society made by the Act and the target which the Act endeavors to accomplish. The data which was looked for from the residents damaged the trustworthiness of the residents. The object of the Act was not in nexus with the data which was tried to be gathered by the residents. The Act additionally made a characterization of residents dependent on religion. Characterization dependent on religion didn't just separate residents yet additionally constrained them to uncover their religion which is violative of Article 25 of the Indian Constitution. Further, the Act likewise made Aadhaar Cards necessary for profiting certain advantages that were offered by the Government to the residents under the Act. The impulse of Aadhaar Cards will likewise empower the Government to put the residents under its reconnaissance and this would add up to an infringement of the Right to security under Article 21 of the Constitution. Infringement of the Right to security is an intense infringement of the Right to life as it infringes upon the life and pride of the residents which is the fundamental right ensured under the Constitution.

The greater part of the guidance who showed up for various solicitors concurred that to the extent portion of Aadhaar number for exceptional recognizable proof of the occupants is considered there was no doubt of debate.

The contentions which were made by some popular legal counselors against the Aadhaar Act were as per the following:

**Shyam Divan: -**

Shyam Divan was the main insight who began with the candidate's contentions. He tested the Aadhaar Act, 2016. He fought that according to the Indian Constitution the State will undoubtedly give advantages to its residentsby method for endowments and administrations. The Aadhaar Act makes these advantages contingent for theresidents which the State willundoubtedly give to its residents. To profit such advantages the Aadhaar Act needs the residents to give their biometric and segment data. Area 7 of the Act was tested on this ground by Shyam Divan.

The Aadhaar Act empowered the Government to follow the residents which damaged their entitlement to protection and consequently was unlawful. The UIDAI enables to the State to drop the quantity of the residents which is given in their Aadhaar and such a demonstration of the State would not have any redressal instrument.

**Kapil Sibal: -**

The principle dispute of Kapil Sibal was that when Right to Privacy was made a Fundamental Right under Article 21 of the Constitution then the individual data of the residents which the Act tries to get ought not to be permitted. The Act removes the option to settle on a decision from the residents as indicated by the Act it is required for the residents to uncover the data to the State which the Act needs them to so as to profit the advantages and endowments gave by the Government as without Aadhaar verification the residents will be precluded from claiming those Government recipients. The Aadhaar Act removes the instructive security from the residents which have been perceived as the Right to Privacy.

It was fought by him that the assortment of data from the residents abuses Article 21 of the Constitution.

**Arvind Data**

It was fought by Arvind Datar that the Aadhaar Act is illegal as it can't be treated as a cash bill. Connecting of the financial balances with Aadhaar abuses the privileges of the residents as they are not left with a decision to work their ledgers without connecting it with the special ID and consequently, it is violative of Article 14 and 21 of the Constitution. Further, the State did even give a clarification to the residents for connecting their financial balances with Aadhaar. Motivation to do so was should have been given by the State so as to clarify the item which the State plans to accomplish thusly. The option to settle on a decision is a correct that has been perceived as a Fundamental Right under the Right to protection. The Aadhaar Act removes the option tosettle on a decision by the residents and hence, disregards the Fundamental Right of the residents under Article 21 of the Constitution.

The Act likewise disregards the guideline of proportionality under Article 14 of the Constitution as having an Aadhaar will give a substantial personality to an individual and whosoever neglects to do so won't be considered to have a legitimate character.

He contended that Section 139AA of Income Tax Act which makes it mandatory for residents to connect their Aadhaar with their financial balances is violative of the Right to Privacy under Article 21 of the Constitution and is should have been rethought.

**P Chidambaram: -**

It was fought by P Chidambaram that the Aadhaar Act was not the slightest bit a cash bill thus it ought not to be treated as one. He expressed that a bill to fit the bill to be a cash charge needs to experience severe standards that have been set and on the off chance that the bill passes such models just, at that point it very well may be treated as a cash bill. He additionally expressed that all the cash charges need to experience the Rajya Sabha and afterward it is passed to the President for his consent. The President has the ability to send back the cash bill for reexamination which has been passed by the Rajya Sabha in the event that he feels that a few remedies are should have been made in it.

**RESPONDENTS: -**

It was expressed by the respondents in the testimony that their goal behind acquainting the Act was with guarantee that all the residents who are qualified for the advantages and appropriations by the Government get such advantages and sponsorships and aren't denied of it.

It was likewise countered by the respondents that the Aadhaar Act doesn't request any data which can abuse an individual's Right to Privacy. It was put together by the respondents that the Act scarcely requests any close to home data from the residents which can empower State observation on them. The respondents further expressed that the segment data which the Act tries to ask from the residents incorporate name, date of birth, sexual orientation, address, portable number and email address of the residents. Giving versatile number and email address to the State was left on the alternative of the residents and these two are required distinctly for transmitting pertinent data to the AMH and for giving One Time Password (OTP) for their verification. The data which the Act looks to get from the residents is in the open area. It was likewise expressed by the respondents that the Act under Section 2(k) explicitly gives that the guidelines can't request the data like race, religion, standing, clan, ethnicity, language, salary, records of qualification or clinical history from the residents and consequently, any touchy data can't be asked from the residents through this Act. Considering the Section expressed over the extent of getting any extra segment data is extremely restricted and even the biometric data which the Act tries to get from the residents is constrained to their fingerprints and an iris examine.

This particular rejection, in the unique circumstance, guarantees that the extent of including extra segment data is exceptionally thin and constrained. Such biometric data is ordinarily acquired everywhere throughout the world so as to distinguish an individual. The contention of the respondent was, accordingly, that the data which Aadhaar Act tries to get is non-obtrusive and non-meddlesome personality data.

The complete reports on information insurance and enlightening security were set up by the Planning Commission of India under the Chairmanship of Retired Justice A.P. Shah. the report included five striking highlights that expected to secure the protection of residents.

The structure recommended by the Planning Commission depended on the accompanying five striking highlights:

* Mechanical lack of bias and interoperability with universal gauges;
* Multi-dimensional protection;
* Level relevance to state and non-state elements;
* Similarity with protection standards; and
* A co-administrative requirement system.

On 31st July 2017, the Central Government comprised a board of trustees to audit information insurance standards in the nation and make proposals which was led by RetiredJustice B N Srikrishna, previous Judge of the Supreme Court of India. The Committee had as of late discharged its report and the principal draft of the Personal Data Protection Bill, 2018. It completely addresses the procedure of individual information. It incorporates data like where such information has been gathered, uncovered, shared or in any case handled inside the region of India. The arrangements and standards of Europe's General Data Protection Regulation (EUGDPR) and EU information security statute were utilized to outline the bill.

The customary ideas of the information controller wherein the element forms the information and the individual whose information is being gathered known as information subject was supplanted by the Draft Bill. The new idea presented by the Draft Bill was 'information guardian and father head'. The new idea intended to set up a trust-based connection between the substance and the individual whose information is being gathered.

The Draft bill and the report incorporates the rights and commitments of the information guardian and information controller individually. These rights incorporate the option to access and amendment, the privilege to information versatility and the option to be overlooked – an option to forestall or limit revelation of individual information by a guardian. The assent assumes an essential job as it has been given a significant status in the draft information security law. In this way, with the end goal of the way toward preparing the individual subtleties of the residents, it assumes a noteworthy job.

The Draft bill and the report incorporates the rights and commitments of the information trustee and information controller individually. These rights incorporate the option to access and adjustment, the privilege to information compactness and the option to be overlooked – an option to forestall or limit divulgence of individual information by a trustee. The assent assumes a significant job as it has been given a significant status in the draft information security law. Hence, with the end goal of the way toward preparing the individual subtleties of the residents, it assumes a critical job.

It was said by the respondents side that Aadhaar functions as a character card which is utilized by around 92 crore individuals for getting to different social plans or profiting benefits which are given by the Government to its residents. It is a report which generally is being utilized by the residents and confining it would make an issue for the residents. Aadhaar is a record that can help the Government in distinguishing and dispensing with the duplication and pantomime in marshal rolls and recipient records. It likewise helps the laborers under MGNREGA and retired people to pull back their wages and benefits each month.

The respondents additionally invalidated the protection conflict expressing that the information which is acquired by the Act is secure as it is encoded at its source and all the biometrics of the residents are put away by the Government in the Government of India's servers. The Government of India's servers has a security standard which is truly outstanding on the planet. The duplication of cards or phony cards for profiting the advantages which are given by the Government can be maintained a strategic distance from with the assistance of Aadhaar number which asked from the residents. Aadhaar will likewise have the option to help in diminishing the inclusion of go between who attempt to deplete off a piece of the Government's sponsorship which is made accessible for a specific segment of the general public. Government endowments are for the most part worried about merchandise and ventures like nourishment grains, manures, water, power, training, medicinal services. The Government as a rule gives these products and ventures at a lower cost than the market cost. To make this activity work productively Aadhaar can be utilized. Aadhaar can be utilized to guarantee auspicious and direct installment to the segments of society for which endowments are made accessible by the Government and forestall spillage of cash. This progression can spare a great many crores of rupees which are lost in spillage. The Government have distinguished crores of copy apportion cards; Aadhaar can guarantee that the advantages and sponsorships which are mean for specific areas of society really contacts them.

The motive behind the arrangement which is incorporated by the Government for the residents to cite their Aadhaar number while applying for PAN card and for documenting Income Tax returns is to recognize the duty dodgers by connecting their PAN card with Aadhaar. Compulsory connecting of PAN card with Aadhaar can control charge dodgers and furthermore guarantee that one individual claims just one PAN card. Making Aadhaar compulsory can distinguish the deceitful practices which are going on in the nation and control it to a huge degree. One of a kind Identification Authority of India can even forever or briefly deactivate a person's number which has been given in the Aadhaar.

**JUDGEMENT: -**

The Aadhaar Act was held to be legitimate by the Supreme Court. The Hon'ble Court expressed that adequate safety efforts have been taken by the Government so as to protect the information which the residents have been approached to uncover for Aadhaar. A five-judge seat drove by CJI Dipak Misra chose the case. The Bench requested that the Government take measures to give greater security so as to ensure the information acquired by the individuals. It was likewise expressed by the Court that the data which has been acquired by Aadhaar ought not to be discharged to the business banks, installment banks, and e-wallet organizations. E-wallet organizations like Paytm requested that their clients complete their KYC by utilizing their Aadhaar cards. It was held by the Court that such data of Aadhaar ought not to be discharged to them. It was likewise expressed by Bench that telecom organizations can't look for subtleties of Aadhaar from their clients when they purchase another sim card and even schools will not request that understudies give their Aadhaar number to showing up in board tests or for affirmations.

The Supreme Court maintained the legitimacy of Aadhaar and made it obligatory for profiting the advantages and endowments of the Government. The Act guarantees that the advantages and endowments of the Government are gotten by the individuals for whom it is implied. The Court held Section 57 of the Act to be illegal and was, subsequently, struck down.

The court held that Aadhaar card will be made obligatory for profiting the government assistance plans, advantages, and appropriations that are given by the Government as it enables poor people and guarantees that the advantages and sponsorships are gotten by the areas of society for which it was implied. Segment 57 of the Aadhaar Act was held to be unlawful and was struck down. The Supreme Court held that kids would not be prevented the advantages from claiming any Government plot on the off chance that they don't have an Aadhaar card. The Bench of the Supreme Court additionally struck down the national security exemption under the Aadhaar Act.

The Court likewise clarified the contrast between a character card and Aadhaar. Aadhaar has an interesting ID and thus can't be copied like other character cards. Further, the Court likewise expressed that the goal of Aadhaar is to give personality and enable the poor of the general public by ensuring that they can profit the advantages and appropriations which are given by the Government to them. In this way, the Aadhaar has been made necessary for benefiting the government assistance plans.

**CONCLUSION: -**

The Aadhaar Act was propelled with the reason to give character and strengthening to the underestimated area of the general public. It gives an interesting distinguishing proof number to the residents of India. The Aadhaar number is remarkable and in this way, it can't be copied. The novel ID guarantees that the advantages and sponsorships of the Government are profited by the segment of society for which it is implied. Aadhaar can forestall out of line practices and spillage of thousands of crores of cash. Numerous security rights questions were likewise brought up for the situation. The subject of pride of residents, instructive self-assurance and assent framed the reason for the protection rights claims.

The privilege to Privacy shaped a significant piece of the case. A five-judge seat of the Humble Supreme Court on 26th September 2018 conveyed a judgment for respondents. The legitimacy of Aadhaar was maintained by the Court in the wake of striking down different provisos and Sections of the Act which were in opposition to the Constitution and abused the privileges of the residents. Justice A.K. Sikri who composed most of the appointed authorities pronounced the Aadhaar Act to be substantial in the wake of striking down Section 33(2) and Section 57 of the Act. Different inquiries were raised by the solicitors on issues like the Right to Privacy of the residents and the chance of state observation just as the chance of break of data which was gathered by the Government for Aadhaar cards of the residents. The inquiries of the applicants have alleviated the case of UIDAI that their framework is truly outstanding on the planet and tied down enough to guard the data of the residents. The Court held the Aadhaar Act to be constitutionally substantial as the Act was under sensible limitations of the Constitution.

Most of the fair Bench likewise expressed that the privilege of decision of the residents to benefit the Aadhaar card won't be secured by maintaining the Aadhaar Act. The residents won't be left with a decision as Aadhaar will be required for profiting the sponsorships and advantages of the Government and if a resident is prohibited from profiting the endowments and advantages of the Government because of absence of Aadhaar or verification issue it can bring about the infringement of the pride of the resident. The Bench likewise said that connecting of Aadhaar to PAN card isn't significant as there isn't any protected method of reasoning behind it. Maintaining of Aadhaar can bring about the infringement of the Right to Privacy much in the wake of striking down Section 33(2) and Section 57 of the Act. So as to ensure the Right to Privacy of the residents the Court unmistakably precluded the opportunities for private elements to utilize the validation component or for asking Aadhaar subtleties by the residents. The progression taken by the Court was to ensure the Right to Privacy of the residents and it unmistakably demonstrated that the Right to Privacy is undoubtedly a Fundamental Right.

**REFERENCES: -**

* K.S. Puttaswamy V. Union of India, WRIT PETITION (CIVIL) NO 494 OF 2012
* Article 14, 19, and 21 of Indian Constitution.
* Kharak Singh V. State of U.P, 1963 AIR 1295, 1964 SCR (1) 332
* M.P Sharma V. Satish Chandra, 1954 AIR 300, 1954 SCR 1077
* Aadhaar Act, 2016.

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**SUGGESTIONS:-**

This choice has been perceived as being of incredible lawful and political importance. The Opposition Congress party pioneer said that it "will rank among the most significant decisions conveyed by the Supreme Court since the approach of the constitution of India." The Hindustan Times remarked that "The nation couldn't have a superior blessing from the legal executive for its 70th year of autonomy". The case has been viewed as a significant misfortune for the Modi Government.

The eventual fate of the Aadhaar program has been put in question and, in the light of the remarks of the lion's share there is a solid chance that the Supreme Court will currently strike down enactment condemning same-sex connections. The joint judgment clarifies that the Indian Government is presently under a commitment to set up an information security system to ensure the protection of the person.

The choice has been invited by Indian and global pundits, it puts the privilege to protection at the core of sacred discussion on the planet's biggest majority rules system and is probably going to give help and motivation to security campaigners around the globe.

1. [Kharak Singh vs State of UP](https://indiankanoon.org/doc/619152/);1963 AIR 1295, 1964 SCR (1) 332 [↑](#footnote-ref-2)
2. M. P. Sharma And Others vs Satish Chandra ;1954 AIR 300, 1954 SCR 1077 [↑](#footnote-ref-3)