

(2017) 02 SC CK 0061

In the Supreme Court Of India

Case No : Writ Petition (C) No. 607 of 2016

Lokniti Foundation

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 06-02-2017

Acts Referred:

Constitution of India, 1950 — Article 226, Article 32

Citation : (2017) 2 RecentApexJudgments(RAJ) 280 : (2017) 7 SCC 155 :
(2017) 6 SCALE 698

Hon'ble Judges : Jagdish Singh Khehar, CJ;N.V. Ramana, J

Bench : Division Bench

Advocate : Mukul Rohtagi, AG, A.N.S. Nadkarni, ASG, Vijay Prakash, Ms. Sadhna Sandhu, Jai Dehadrai, Santosh Salvadore Rebello, Ms. Sneha S. Prabhu Tendulkar, Ajit Yadav, G.S. Makker, Advocates, for the Respondents; Sanjay Kapur, Anmol Chandan, Ms. Priyanka Das, Ms. Shubhra Kapur, Advocates, for the TRAI; Dr. Ashok Dhamija, Dr. Kailash Chand, Advocates, for the Petitioner

Final Decision : Disposed Of

Judgement

1. The petitioner has approached this Court for a commendable cause. The prayer made in the writ petition is, that there should be a definite mobile phone subscriber verification scheme, to ensure 100% verification of the subscriber. It is the prayer of the petitioner, that the identity of each subscriber, as also, his/her address should be verified, so that no fake or unverified phone subscriber, can misuse a mobile phone. It was the contention of the learned counsel for the petitioner, that the instant prayer is imperative, as mobile phones are, used not only for domestic criminal activity, but also, for known terrorist activity (sometimes with foreign involvement).

2. Consequent upon notice being issued to the Union of India, a short counter affidavit has been filed on its behalf, wherein, it is averred as under:

"22. That however, the department has launched `Aadhaar based E-KYC for issuing mobile connections" on 16th August, 2016 wherein the customer as well

as Point of Sale (PoS) Agent of the TSP will be authenticated from Unique Identification Authority of India (UIDAI) based on their biometrics and their demographic data received from UIDAI is stored in the database of TSP along with time stamps. Copy of letter No.800-29/2010-VAS dated 16.08.2016 is annexed herewith and marked as Annexure R-1/10.

23. As on 31.01.2017, 111.31 Crores aadhaar card has been issued which represent 87.09% of populations. However, still there are substantial number of persons who do not have aadhaar card because they may not be interested in having Aadhaar being 75 years or more of age or not availing any benefit of pension or Direct Benefit Transfer (DBT). Currently Aadhaar card or biometric authentication is not mandatory for obtaining a new telephone connection. As a point of information, it is submitted that those who have Aadhaar card/number normally use the same for obtaining a new telephone connection using E-KYC process as mobile connection can be procured within few minutes in comparison to 1-2 days being taken in normal course.

24. That in this process, there will be almost `NIL" chances of delivery of SIM to wrong person and the traceability of customer shall greatly improve. Further, since no separate document for Proof of Address or Proof of Identity will be taken in this process, there will be no chances of forgery of documents."

3. The learned Attorney General, in his endeavour to demonstrate the effectiveness of the procedure, which has been put in place, has invited our attention to the application form, which will be required to be filled up, by new mobile subscribers, using e-KYC process. It was the submission of the learned Attorney General, that the procedure now being adopted, will be sufficient to alleviate the fears, projected in the writ petition.

4. Insofar as the existing subscribers are concerned, it was submitted on behalf of the Union of India, that more than 90% of the subscribers are using pre-paid connections. It was pointed out, that each pre-paid connection holder, has to per force renew his connection periodically, by making a deposit for further user. It was submitted, that these 90% existing subscribers, can also be verified by putting in place a mechanism, similar to the one adopted for new subscribers. Learned Attorney General states, that an effective programme for the same, would be devised at the earliest, and the process of identity verification will be completed within one year, as far as possible.

5. In view of the factual position brought to our notice during the course of hearing, we are satisfied, that the prayers made in the writ petition have been substantially dealt with, and an effective process has been evolved to ensure identity verification, as well as, the addresses of all mobile phone subscribers for new subscribers. In the near future, and more particularly, within one year from today, a similar verification will be completed, in the case of existing subscribers. While complimenting the petitioner for filing the instant petition, we dispose of the same with the hope and expectation, that the undertaking given to this

Court, will be taken seriously, and will be given effect to, as soon as possible.

6. The instant petition is disposed of, in the above terms.