

following manner:-

Ans.18:- The Aadhaar Act does not violate the interim orders passed in Writ Petition (C) No. 494 of 2012 and other Writ Petitions.

385. I had gone through the erudite and scholarly opinion of Justice A.K.Sikri (which opinion is on his own behalf and on behalf of Chief Justice and Justice A.M.Khanwilkar) with which opinion I broadly agree. Rule 9 as amended by PMLA (Second Amendment) Rules, 2017 has been struck down by my esteemed brother which provision has been upheld by me. My reasons and conclusions are on the same line except few where my conclusions are not in conformity with the majority opinion.

CONCLUSIONS:-

386. In view of above discussions, we arrive at following conclusions:-

- (1) The requirement under Aadhaar Act to give one's demographic and biometric information does not violate fundamental right of

privacy.

- (2) The provisions of Aadhaar Act requiring demographic and biometric information from a resident for Aadhaar Number pass three-fold test as laid down in Puttaswamy (supra) case, hence cannot be said to be unconstitutional.
- (3) Collection of data, its storage and use does not violate fundamental Right of Privacy.
- (4) Aadhaar Act does not create an architecture for pervasive surveillance.
- (5) Aadhaar Act and Regulations provides protection and safety of the data received from individuals.
- (6) Section 7 of the Aadhaar is constitutional. The provision does not deserve to be struck down on account of denial in some cases of right to claim on account of failure of authentication.
- (7) The State while enlivening right to food, right to shelter etc. envisaged under Article 21 cannot encroach upon the right of privacy of beneficiaries nor former can be given precedence over the latter.

- (8) Provisions of Section 29 is constitutional and does not deserves to be struck down.
- (9) Section 33 cannot be said to be unconstitutional as it provides for the use of Aadhaar data base for police investigation nor it can be said to violate protection granted under Article 20(3).
- (10) Section 47 of the Aadhaar Act cannot be held to be unconstitutional on the ground that it does not allow an individual who finds that there is a violation of Aadhaar Act to initiate any criminal process.
- (11) Section 57, to the extent, which permits use of Aadhaar by the State or any body corporate or person, in pursuant to any contract to this effect is unconstitutional and void. Thus, the last phrase in main provision of Section 57, i.e. "or any contract to this effect" is struck down.
- (12) Section 59 has validated all actions taken by the Central Government under the notifications dated 28.01.2009 and 12.09.2009 and all actions shall be deemed to have been taken under the Aadhaar Act.

- (13) Parental consent for providing biometric information under Regulation 3 & demographic information under Regulation 4 has to be read for enrolment of children between 5 to 18 years to uphold the constitutionality of Regulations 3 & 4 of Aadhaar (Enrolment and Update) Regulations, 2016.
- (14) Rule 9 as amended by PMLA (Second Amendment) Rules, 2017 is not unconstitutional and does not violate Articles 14, 19(1)(g), 21 & 300A of the Constitution and Sections 3, 7 & 51 of the Aadhaar Act. Further Rule 9 as amended is not ultra vires to PMLA Act, 2002.
- (15) Circular dated 23.03.2017 being unconstitutional is set aside.
- (16) Aadhaar Act has been rightly passed as Money Bill. The decision of Speaker certifying the Aadhaar Bill, 2016 as Money Bill is not immuned from Judicial Review.
- (17) Section 139-AA does not breach fundamental Right of Privacy as per Privacy Judgment in **Puttaswamy** case.

(18) The Aadhaar Act does not violate the interim orders passed in Writ Petition (C) No. 494 of 2012 and other Writ Petitions.

387. Now, we revert back to the batch of cases, which have come up for consideration before us.

388. We having considered and answered the issues arising in this batch of cases, all the Writ Petitions filed under Article 32 deserves to be disposed of in accordance with our conclusions as noted above. All Transfer Cases/Transfer Petitions are also deserves to be decided accordingly.

389. Now, we come to the Criminal Appeal arising out of S.L.P. (Crl.) No. 2524 of 2014. The above S.L.P. (Crl.) arose out of an order passed by Judicial Magistrate First Class dated 22.10.2013 by which Judicial Magistrate First Class directed DG, UIDAI and Dy. Dg. UIDAI Technology Centre, Bangalore to provide the necessary data to the respondent C.B.I. The said order was challenged in the High Court by means of Criminal Writ Petition, in which the order was passed by the High Court on 26.02.2014 giving rise to S.L.P. (Crl.) No. 2524 of 2014.

390. We have noticed above that according to Aadhaar Act Section 33 disclosure of information can be made as per sub-section (1) pursuant to an order of Court, not inferior to that of District Judge. The order directing for disclosure of information having been passed by Judicial Magistrate First Class, in the present case, the order is not in consonance with sub-section (1) of Section 33, hence the order passed by Judicial Magistrate, First Class dated 22.10.2013 and order of the High Court passed in reference to the said order deserves to be set aside. Criminal Appeal is allowed accordingly.

391. No case is made out to initiate any contempt proceedings in the contempt applications as prayed for. All the contempt petitions are dismissed.

392. In result, this batch of cases is decided in following manner:-

- (i) All the Writ Petitions filed under Article 32 as well as Transfer Cases are disposed of as per our conclusions recorded above.

- (ii) Criminal Appeal arising out of S.L.P. (Criminal) No. 2524 of 2014 is allowed.
- (iii) All the contempt applications are closed.

393. Before we part, we record our deep appreciation for the industry, hard work and eloquence shown by learned counsel for the parties appearing before us, which was amply demonstrated in their respective arguments. Learned counsel have enlightened us with all relevant concerned materials available in this country and abroad. The concern raised by these Public Interest Litigations is a concern shown for little Indian for whom the Society, Government and Court exists. We appreciate the concern and passion expressed before us by learned counsel appearing for both the parties as well as those, who were permitted to intervene in the matter. We close by once more recording of our appreciation for the cause espoused in these cases.

.....J.
(ASHOK BHUSHAN)

**NEW DELHI,
SEPTEMBER 26, 2018.**