

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.7267 of 2018

ORDER:-

This Writ Petition is filed for the following relief:-

“To issue a Writ of Mandamus or any other appropriate Writ or Order directing the respondents to act upon the representation of the petitioner and issue an Aadhar Number/Card in favour of the petitioner in accordance with Section 5 of the Act read with Regulation 6 of Aadhar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 whilst holding the inaction of the respondents in not issuing the Aadhaar Card as illegal, violative of Articles 14 and 21 of the Constitution of India and pass such other order or further Orders.”

When the matter is taken up, an Office Memorandum bearing No.D-26011/04/2017-DBT, dated 19-12-2017, is placed on record by Sri K.Lakshman, learned Assistant Solicitor General appearing for Union of India/respondents.

Paragraph 2 (A) of the said Office Memorandum reads as follows:-

“For extending benefits to beneficiaries who do not possess Aadhaar, the following mechanism may be adopted:

- i. The beneficiary shall be provided subsidy, benefit or service based on alternative identification document as notified in the relevant notifications issued under the possession of Section 7 of the Aadhaar Act, 2016.
- ii. Efforts should be made to ensure that all such beneficiaries are facilitated for enrolment under

Aadhaar. The concerned Department through its Implementing Agencies may offer Aadhaar enrolment facilities for such beneficiaries at convenient locations through centres in the representative Block/Taluka/Tahsil (including through Post Offices, Banks, ICDS Centres etc.)

- iii. As per regulation 12 of the Aadhaar (Enrolment and Update) Regulations, 2016, the State Government/Implementing Agencies should also make special arrangements for bed ridden, differently-abled, or senior citizens, who are unable to visit the registration centre(s), to get them enrolled for Aadhaar.
- iv. Till such time Aadhaar is assigned to a beneficiary, a separate register, preferably electronic, shall be maintained for recording such transaction, whenever the beneficiary is provided benefits/services on the basis of alternative identification documents. This register may be periodically reviewed and audited.”

It is clear from the above memorandum that the State Government/Implementing Agencies should also make special arrangements for bed ridden, differently-abled or senior citizens, who were unable to visit the registration centres to get them enrolled for Aadhaar. Clause (iv) of paragraph No.2 (A) of the above said memorandum clarifies in clear and unequivocal terms that till such time Aadhaar is assigned to a beneficiary, a separate register, preferably electronic, shall be maintained for recording such transaction, whenever the beneficiary is provided benefits/services on the basis of alternative identification

document and the said register requires periodical review and audit.

Learned Assistant Solicitor General also placed on record a letter bearing No.UIDAI-RO Hyderabad – Court Case, dated 09.03.2018, addressed to the learned Assistant Solicitor General of India, wherein at paragraph No.3 it is stated as follows:-

“However, it may also be informed to the Hon'ble Court, that till the Aadhaar number is assigned to an individual any service, benefits or subsidies etc., shall not be denied for want of Aadhaar as per Aadhaar Act, 2016 and guidelines on Exception Handling Mechanism issued vide Cabinet Sectt. O.M., dated 19.12.2017 (copy enclosed).”

In view of the above clarifications, it is now very much evident that on the ground of lack of Aadhaar number/Card, the petitioner cannot be restrained to operate her bank accounts.

There shall be a direction to the respondents to permit the petitioner to operate her bank accounts and the respondents/authorities shall act strictly in accordance with the above.

The Writ Petition is disposed of accordingly. Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

A.V.Sesha Sai, J

Date: 13.03.2018
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