

Sixteenth Lok Sabha

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Title: Introduction of the Aadhaar and Other Laws (Amendment) Bill, 2018 (Bill Introduced).

HON. SPEAKER: Now, Bill to be introduced. Shri Ravi Shankar Prasad.

... (*Interruptions*)

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF ELECTRONICS AND INFORMATION TECHNOLOGY (SHRI RAVI SHANKAR PRASAD): I beg to move for leave to introduce a Bill to amend the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 and further to amend the Indian Telegraph Act, 1885 and the Prevention of Money-laundering Act, 2002. ...(*Interruptions*)

HON. SPEAKER: Motion moved :

“That leave be granted to introduce a Bill to amend the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 and further to amend the Indian Telegraph Act, 1885 and the Prevention of Money-laundering Act, 2002.”

... (*Interruptions*)

HON. SPEAKER: Prof. Saugata Roy, do you want to oppose the Bill?

... (*Interruptions*)

PROF. SAUGATA ROY (DUM DUM): Madam, I am not able to hear anything. ... (*Interruptions*) Madam, I want to oppose the Bill. ...(*Interruptions*)

HON. SPEAKER: I will be able to give you only one minute to speak.

... (*Interruptions*)

PROF. SAUGATA ROY : Under Rule 72 (1) of the Rules of Procedure, I oppose the introduction of the Aadhaar and Other Laws (Amendment) Bill. The reasons are given below. ... (*Interruptions*)

The Bill is in contravention of the Supreme Court judgement dated 26.09.2018 in Justice A S Puttuswamy *versus* Union of India in W.P. Civil No. 494. The judgement restricted the use of Aadhaar for only such schemes, which have the colour of a subsidy and which are paid out of the Consolidated Fund of India. ... (*Interruptions*) Further, the judgement explicitly prohibit use of Aadhaar by private parties by declaring section 57 of the Aadhaar Act, 2016 unconstitutional. This applies to either voluntary or mandatory Aadhaar-based authentication by private and entities. ... (*Interruptions*) The present Bill proposes amendments to the Aadhar Act, the Telegraph Act and the PMLA, which will in effect circumvent the Supreme Court judgement and allow continued use of Aadhar-based KYC authentication by private entities for mobile and banking services respectively. ... (*Interruptions*)

Problematic clauses of the Bill - a) Clause 7 of the amendment to section 4 of the Aadhaar Act, 2016 mandating authentication of Aadhar number holder for provision of any service; b) Clause 24 of the amendment to section 4 of the Indian Telegraph Act, 1986 allowing any licensed telecom service provider to conduct on Aadhaar-based authentication; c) Clause 25 inserting a new section 11(a) in the PMLA 2002 which allows banking companies to conduct Aadhaar based authentication or off-line verification. ... (*Interruptions*)

The Bill may allow private entities to hold Aadhaar data in disregard of SC judgement which required all agencies to delete Aadhar authentication laws forthwith. ...(*Interruptions*)

Privacy and security concerns related to Aadhaar remain unaddressed we highlight here that while private entities were allowed use of Aadhaar-based e-KYC, there were several reports of fraudulent transactions and scanning of citizens' personal data as well as personal wealth. ...(*Interruptions*)

The Bill has been brought without stakeholders' consultation, hence, the amendment should be thoroughly studied. ...(*Interruptions*)

We apprehend that the Government may once again take the Money Bill route to bulldoze these amendments through Parliament despite the warnings issued by the Supreme Court and cross sections of political parties. ...(*Interruptions*)

We worry that the Government's primary interest is in maintaining the *status quo* on Aadhaar, that is, ensuring that it can be used by any public while paying lip service to the Supreme Court's directions and the concerns of the general public. ...(*Interruptions*)

In the light of the above, I beg to place that this Bill is outside the legislative competence of the House in that it violates the Supreme Court's judgment. Hence, this Bill should not be introduced. I strongly oppose the introduction of the Bill under all laws possible. ...(*Interruptions*)

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): Madam, I rise to oppose the introduction of the Aadhaar and Other Laws (Amendment) Bill, 2019 on three specific grounds, though I concur with my hon. friend from West Bengal. ...(*Interruptions*)

The Supreme Court of India in its landmark judgment in Justice Puttuswamy versus Union of India, also known as the Aadhaar Judgment case restricted the Government's

ability to link everything they like to Aadhaar. ...*(Interruptions)* The fact is that the Court made it very clear that mandatory Aadhar-based authentication by private service providers is unconstitutional and a violation of the right to privacy, even if there is a contract between the service provider and consumer to such effect, because private entities can commercially exploit individual data. ...*(Interruptions)*

This Bill enables the Government to facilitate the enactment of laws to provide for mandatory Aadhaar-based authentication for the provision of "any service". which can therefore also include private services. ...*(Interruptions)* Therefore, this Bill is in violation of the Supreme Court judgment, the fundamental right to privacy and the doctrine of proportionality, which seeks to safeguard citizens from excessive Government measures. ...
(Interruptions)

Second reason is, Madam, that the Bill is premature, because we first need the enactment of -a Data Protection Law to prescribe the basic standards to protect our right to privacy. Amendments must be made to the Aadhaar Act, 2016 after the enactment of a data protection law, in order to bring the Act in consonance with the data protection framework.
...*(Interruptions)*

Therefore, the Bill must be withdrawn and revised after the enactment of a data protection law.

Aadhaar is not an identification, rather it is a method of authentication as provided under the Aadhaar Regulations and has been stated so by none other than the UIDAI. There is no certifying authority to validate the information, it just matches a unique number with your biometric data. The Bill uses the terms 'identification' and 'authentication' synonymously, thereby blurring this important distinction.

Due to these reasons, I urge the Minister to withdraw this Bill and bring a revised list of amendments to the Aadhaar Act after we enact a data protection framework.

SHRI N.K. PREMACHANDRAN (KOLLAM): Madam Speaker, I rise to oppose the introduction of the Aadhaar and Other Laws (Amendment) Bill, 2018.

I fully endorse the views which have already been expressed by my learned friends, Shri Saugata Roy ji and Dr. Shashi Tharoor ji.

Madam, the Bill infringes the Right to Privacy, a Fundamental Right, which is guaranteed by the Supreme Court Judgment in the Justice K. S. Puttaswamy's case.

I would like to raise another very important objection. I have a distinct view in respect of this Bill, Madam. Kindly see the definition of Aadhaar. The original definition of Aadhaar is being drastically changed. A new clause has to be incorporated as sub-clause 4 of Section 3. The new provision is that the Aadhaar Number issued to an individual under sub-Section 3 shall be a 12-digit identification number and any alternative virtual identification number as an alternative to the actual Aadhaar Number of an individual shall be generated by the Authority in such a manner as may be specified by the regulations.

My strong objection is that the original identification number or the Aadhaar Number is 12-digit number. Now, by the new provision through this Amendment, Parliament is giving ample authority and power to the Government and Executive to decide what an 'alternative virtual identification number' is.

Madam, my simple question to the Government through you is: What is the role of this Parliament? We are making a legislation and entrusting the entire authority upon Executive to decide the identification number. Parliament has already enacted a law by which the identification number is well established. By the proposed Amendment from the Government in this case, an alternative virtual identification number will be generated by the authority on the basis of the rules and regulations made by the Government. Who is making the rules and regulations? The Government is making the rules and regulations. Then what

is the scope of Parliament? The legislative competence of Parliament is being taken by the Government. So, I strongly oppose the Bill since it is violating the Fundamental Right to Privacy and against the provisions of the Legislature.

SHRI RAVI SHANKAR PRASAD : Madam, I have heard the objection of all the three hon. Members, Prof. Saugata Roy, Dr. Tharoor and Shri N. K. Premachandran.

Let me clarify at the very outset that this proposed Amendment in the shape of the Bill is being done in compliance with the Supreme Court Judgment itself. Whatever gaps the hon. Supreme Court has found, we are addressing those gaps in the shape of this Amendment.

Secondly, it is not mandatory at all, it is voluntary whereby alternative mode of authentication is also being provided.

Thirdly, regarding privacy issue, I wish to deny with all the authority at my command that privacy is not being invaded at all. On the contrary, the hon. Supreme Court itself withheld that the Aadhaar in the present architecture completely safeguards the privacy. We should not forget that the Aadhaar has led to saving of Rs. 90,000 crore of public money in the Direct Benefit Transfer which used to be pocketed by individuals. Even world bodies like World Bank and IMF, all have hailed Aadhaar as a unique innovation of India.

With regard to what Shri Premachandran has stated, I want to make it very clear that this parallel authentication is basically designed to safeguard the privacy issue. Many Aadhaar owners said, "We do not want to disclose our number itself, let us give an individual number whereby authentication can be done". Therefore, responding to those concerns, we have come with an idea where an individual need not disclose his Aadhaar Number.

Regarding the Data Protection Law, Madam, I want to convey to the House that the Data Protection Bill is ready. We shall be very soon coming with that Bill to the House and

the entire Aadhaar architecture will be in tune with the entire Data Protection Law. Therefore, all the objections are misplaced....(*Interruptions*)

Aadhaar today is a robust success story of India. Let that be carried forward. As regards the Supreme Court Judgment, we are not violating any Supreme Court Judgment. But let me say, "Saugata Babu, please do not weaken the authority of Parliament". Parliament has got the right to remove the basis on which the judgments are given. Here, we are acting in consonance with the Judgment. Therefore, Madam Speaker, all the three objections are misplaced. When the Bill is taken up for consideration, I will further address them....(*Interruptions*)

HON. SPEAKER: The question is:

"That leave be granted to introduce a Bill to amend the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, and further to amend the Indian Telegraph Act, 1885 and the Prevention of Money-laundering Act, 2002."

The motion was adopted.

HON. SPEAKER: The hon. Minister may now introduce the Bill.

SHRI RAVI SHANKAR PRASAD: Madam, I introduce* the Bill....(*Interruptions*)

HON. SPEAKER: The House stands adjourned to meet again at 2 pm.

12 21 hrs

The Lok Sabha then adjourned till Fourteen of the Clock.

14 00 hrs Lok Sabha reassembled at Fourteen of the Clock.

(Hon. Speaker *in the Chair*)

At this stage, Shrimati V. Sathyabama and some other hon. Members came and stood on the floor near the Table.

14 01 hrs

माननीय अध्यक्ष: माननीय सदस्यगण नियम 377 के अधीन मामलों को सभा पटल पर रखा जाएगा । जिन सदस्यों को नियम 377 के अधीन मामलों को आज उठाने की अनुमति दी गयी है और जो उन्हें सभा पटल पर रखने के इच्छुक हैं, वे 20 मिनट के भीतर मामले का पाठ व्यक्तिगत रूप से सभा पटल पर रखेंगे । उन्हीं मामलों को सभा पटल पर रखा माना जाएगा, जिनके लिए मामले का पाठ निर्धारित समय के भीतर सभा पटल पर रखा गया है। शेष को व्यपगत माना जाएगा ।

...(व्यवधान)