

SC to hear plea against linking Aadhaar to bank accounts, phones

The petition said the move equated citizens with money launderers.

The Supreme Court will hear a petition challenging the government move to link bank accounts and mobile phones with Aadhaar numbers, saying it violates the fundamental right to privacy and equates citizens, including the elderly, women and students, with money launderers.

The petition filed by activist Dr. Kalyani Menon Sen has challenged Rule 2(b) of the Prevention of Money-laundering (Maintenance of Records) Second Amendment Rules, 2017 for mandatory submission of Aadhaar number for individual clients, companies, partnership firms and trusts for opening of bank accounts, maintaining existing bank accounts, making financial transactions of and above Rs. 50,000 and crediting foreign remittance into 'small accounts'. Existing bank account holders have been directed to furnish Aadhaar numbers by December 31, 2017.

Non-compliance would render the bank accounts concerned "in-operational indefinitely" subject to submission of the Aadhaar Number and the Permanent Account Number (PAN).

"Non-compliance incurs the same liability as Section 5 of the Prevention of Money Laundering Act (for involvement in money laundering), that is rendering the concerned bank account in-operational. Present and potential bank account holders, who do not wish to part with their biometric information, are therefore treated on par with alleged offenders under the Prevention of Money Laundering Act (PMLA)," Ms. Menon, represented by advocate Vipin Nair, submitted.

The petition challenges the Department of Telecom on March 23, 2017 making it mandatory for all mobile phone holders to link their mobile phone numbers with Aadhaar.

The petition said the provision regarding bank accounts and mobile phones both separately create an "impermissible artificial distinction" between those who have parted with their private, biometric information and those who have not. They both compel the latter category of the population to part with their biometrics for opening and maintaining bank accounts or for a mobile phone connection.

'Violates Article 300 A'

The mobile phone circular is violative of Article 300A of the Constitution which protects a person's right to not be deprived of property. "A bank account and mobile phone connection is the personal property of an individual," Mr. Nair represented in court.

Besides, both the provision and the circular are violative of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016 (hereinafter, "Aadhaar Act") which limits the purpose of the Aadhaar number to receipt of a public subsidy, benefit or a service, the petition submitted.

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