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15/11/18



भारत सरकार
Government of India
भारतीय विशिष्ट पहचान प्राधिकरण
Unique Identification Authority of India (UIDAI)
आधार, बंगला साहिब रोड, काली मंदिर के पीछे,
गोल मार्केट, नई दिल्ली-110001
Aadhaar, Bangla Sahib Road, Behind Kali Mandir,
Gole Market, New Delhi-110001

F No. 13012/171/2018/Legal/(UIDAI)/(114)

Circular



Subject: Continuation of AEPS transactions.

Ref: UIDAI Circular F.No.13012/171/2018/Legal/UIDAI/114 dated 23.10.2018.

The Unique Identification Authority of India ('UIDAI') is in receipt of a letter from SBI dated 19.11.2018 addressed to CEO, NPCI intimating its intention discontinue Aadhaar enabled Payment System ('AePS') based on its understanding that its continuation may be in violation of the Supreme Court judgment in *Justice K.S. Puttaswamy v. Union of India ('Puttaswamy II')* dated 26.09.2018.

2. The subject-matter has been carefully examined. The Supreme Court in *Puttaswamy II* has upheld the constitutionality of the Aadhaar programme, specifically Section 7 of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016 ('Aadhaar Act'). It said of Section 7,

"Section 7 of the Aadhaar Act protects right to human dignity recognized by Article 21 of the Constitution. Aadhaar is used as means of authentication for availing services, benefits and subsidies. Welfare schemes funded from the consolidated fund of India such as PDS, scholarship, mid day meals, LPG subsidies, free education ensure that the Right to Life and Dignity of citizens are being enforced, which includes Justice (Social, Political and Economic). It also eliminates inequality with a view to ameliorate the poor, Dalits and other downtrodden classes and sections of the society." (para 255, per Sikri J. for the majority).

Again, at Para 276.

"It is, thus, of some significance to remark that it is this Court which has been repeatedly insisting that benefits to reach the most deserving and should not get frittered mid-way. We are of the opinion that purpose of Aadhaar Act, as captured in the Statement of Objects and Reasons and sought to be implemented by Section 7 of the Aadhaar Act, is to achieve the stated objectives. This Court is convinced by its conscience that the Act is aimed at a proper purpose, which is of sufficient importance."

मुख्य सचिव कार्यालय
झारखण्ड, राँची

मै.स.प्रे.सं. 6905

दि. 12.12.18

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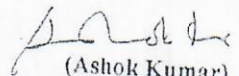
Again, at Para 279,

"Section 7, which provides for necessity of authentication for receipt of certain subsidies, benefits and services has a definite purpose and this authentication is to achieve the objectives for which Aadhaar Act is enacted, namely, to ensure that such subsidies, benefits and services reach only the intended beneficiaries. We have seen rampant corruption at various levels in implementation of benevolent and welfare schemes meant for different classes of persons. It has resulted in depriving the actual beneficiaries to receive those subsidies, benefits and services which get frittered away though on papers, it is shown that they are received by the persons for whom they are meant. There have been cases of duplicate and bogus ration cards, BPL cards, LPG connections etc. Some persons with multiple identities getting those benefits manifold. Aadhaar scheme has been successful, to a great extent, in curbing the aforesaid malpractices. By providing that the benefits for various welfare schemes shall be given to those who possess Aadhaar number and after undergoing the authentication as provided in Section 8 of the Aadhaar Act, the purpose is to ensure that only rightful persons receive these benefits. Non-action is not costly. It's the affirmative action which costs the Government. And that money comes from exchequer. So, it becomes the duty of the Government to ensure that it goes to deserving persons. Therefore, second component also stands fulfilled."

3. Based on the above position, it is hereby clarified that where a payment/ receipt mechanism using Aadhaar Authentication such as AePS, BHIM Aadhaar pay etc. has been established or a bank account has been opened or verified using Aadhaar e-KYC for the purpose of correctly identifying a current or potential beneficiary of a welfare scheme, there is nothing in the Puttaswamy II Judgment which bars voluntary use of such payment/receipt mechanism or bank account by the bank account holder for other purposes. Instead, it is obligatory on banks to continue to provide such facility to people.

4. Therefore, any action to discontinue such payment/receipt mechanism (AePS, BHIM Aadhaar Pay) or bank accounts by banks, on the ground that it is not possible to distinguish their use for delivery of welfare benefits or other purposes may be held contrary to section 7 of the Aadhaar Act and Puttaswamy-II judgement as it will result in creating obstruction in delivery of benefits and may cause denial in deserving cases.

5. This issues with the approval of the competent Authority.


(Ashok Kumar) 22/11/18
Assistant Director General

To,

1. Chairpersons of All Banks.
2. CEO, NPCI
3. Deputy Governor, Reserve Bank of India